

U.S. Bankruptcy Appellate Panel  
of the Ninth Circuit  
125 South Grand Avenue, Pasadena, California 91105  
Appeals from Central California (626) 229-7226  
Appeals from all other Districts (626) 229-7225

FILED  
03 JAN 30 PM 12:47

RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

In Re: ARRIVA PHARMACEUTICALS, INC.

BAP No.: NC-08-1010 (NOA filed by Sonoran Desert Chemicals, LLC)

Bankruptcy No(s) : 07-42767 J11

Adversary No(s) :

PJH

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to SAN FRANCISCO DISTRICT COURT.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Harold S. Marenus, BAP Clerk

By: Edwina Clay  
Deputy Clerk

Date: January 17, 2008

Please acknowledge receipt of  
the case file listed above.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
District Court Deputy

Assigned District Court No.  
\_\_\_\_\_

cc: Bankruptcy Court  
All Parties

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA**

1300 Clay St. #300  
Oakland, CA 94612

FILED  
JAN 30 PM 12:50

CRICKLED H. WILKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**TRANSMITTAL FORM**

BAP#NC-08-1010  
PJH

TO: Bankruptcy Appellate Panel of the Ninth Circuit, 125 S. Grand Avenue, Pasadena, CA 91105

CASE NAME: Arriva Pharmaceuticals, Inc.

BANKRUPTCY NO.: 07-42767 J11

BANKRUPTCY JUDGE: Jellen

DATE NOTICE OF APPEAL FILED: 01/04/2008

DATE OF ENTRY OF ISSUE: 12/27/2007

DATE BANKRUPTCY FILED: 08/29/2007

NOTICE OF OBJECTION FILED:

DATE OF TRANSMITTAL: January 9, 2008

RECEIVED  
Harold S. Meranus, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

JAN 11 2008

FILED  
DOCKETED 15088  
DATE INITIAL

PLEASE STAMP YOUR CASE NUMBER on a copy of this tranmittal form and return the copy to the bankruptcy court.

/s/ Patricia Lenhart  
Deputy Clerk

Squire, Sanders & Dempsey L.L.P.  
Penn Ayers Butler (State Bar # 56663)  
pabutler@ssd.com  
Douglas J. Rovens (State Bar # 106562)  
drovens@ssd.com  
James E. McDonald (*Pro Hac Vice*)  
jmcDonald@ssd.com  
600 Hansen Way  
Palo Alto, CA 94304-1043  
Telephone: +1.650.856.6500  
Facsimile: +1.650.843.8777

RECEIVED  
Harold S. Marenus, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

JAN 11 2008

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE INITIAL

Attorneys for Creditor and Party-In-Interest,  
Sonoran Desert Chemicals, LLC

*PAP# NC-08-1010*

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

In re  
ARRIVA PHARMACEUTICALS, INC., a  
California corporation,  
  
Debtor.  
  
Tax ID: 94-3287067

Case No. 07-42767  
Chapter 11  
NOTICE OF APPEAL

**PJH**

Sonoran Desert Chemicals, LLC ("Sonoran"), creditor and party-in-interest, appeals to the bankruptcy appellate panel under 28 U.S.C. § 158 from the order of the bankruptcy judge (Honorable Edward D. Jellen) disallowing the Sonoran Claim in its entirety without leave to amend and estimating the Sonoran Claim at zero for voting purposes, entered in this Chapter 11 case on the 27th day of December, 2007.

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**In re:**

**Case No.: 07-42767 J11**

**Arriva Pharmaceuticals, Inc.**

**Debtor(s).** /

**NOTICE OF REFERRAL OF APPEAL TO BANKRUPTCY APPELLATE PANEL** **PJH**

**TO ALL PARTIES:**

YOU AND EACH OF YOU are hereby notified that the enclosed notice of appeal has been filed by AlphaMed Pharmaceuticals Corp. with the Clerk of the Bankruptcy Court. By virtue of the orders of the Judicial Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP).

Dated: January 9, 2008

GLORIA L. FRANKLIN, Clerk  
United States Bankruptcy Court

By: /s/ Patricia Lenhart  
Deputy Clerk

Certificate of Mailing

I, the undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Northern District of California, at Oakland, hereby certify:

That I, in the in the performance of my duties as such clerk, served a copy of the foregoing document by depositing it in the regular United States mail at Oakland, California, on the date below, in a sealed envelope, addressed as listed below.

Date: January 9, 2008

/s/ Patricia Lenhart  
Deputy Clerk

United States Trustee  
1301 Clay St. #690N  
Oakland, CA 94612

Bankruptcy Appellant Panel  
125 S Grand Ave.  
Pasadena, CA 91105

**Sonoran Desert Chemicals, LLC**  
Squire, Sanders & Dempsey, L.L.P.  
Penn Ayers Butler (State Bar #56663)  
Douglas J. Rovens (State Bar #106562)  
James E. McDonald (*Pro Hac Vice*)  
600 Hansen Way  
Palo Alto, CA 94304-1043

**Arriva Pharmaceuticals, Inc.**  
Sheppard, Mullin, Richter & Hampton LLP  
Michael H. Ahrens  
4 Embarcadero Center 17th Floor  
San Francisco, CA 94111

1 The names of all parties to the order appealed from and the names, addresses, and  
2 telephone numbers of their respective attorneys are as follows:

3 **Sonoran Desert Chemicals, LLC**  
4 **Represented by:**  
5 Squire, Sanders & Dempsey, L.L.P.  
6 Penn Ayers Butler (State Bar #56663)  
7 pabutler@ssd.com  
8 Douglas J. Rovens (State Bar #106562)  
9 drovens@ssd.com  
10 James E. McDonald (*Pro Hac Vice*)  
11 jmcdonald@ssd.com  
12 600 Hansen Way  
13 Palo Alto, CA 94304-1043  
14 Telephone: (650) 856-6500  
15 Facsimile: (650) 843-8777

**Arriva Pharmaceuticals, Inc. (Debtor)**  
**Represented by:**  
Sheppard, Mullin, Richter & Hampton LLP  
Michael H. Ahrens  
mahrens@sheppardmullin.com  
4 Embarcadero Center 17th Floor  
San Francisco, CA 94111  
Telephone: (415) 434-9100  
Facsimile: (415) 434-3947

11 Dated: January 4, 2008

Squire, Sanders & Dempsey L.L.P.

13 By: /s/ Penn Ayers Butler

14 Penn Ayers Butler  
15 Attorneys for Creditor and Party-In-Interest  
16 AlphaMed Pharmaceuticals Corp., a Florida  
17 corporation  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**

Entered on Docket

December 27, 2007

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



Signed: December 27, 2007

  
 EDWARD D. JELLEN  
 U.S. Bankruptcy Judge

1 SHEPPARD, MULLIN, RICHTER  
 & HAMPTON LLP  
 2 A Limited Liability Partnership  
 Including Professional Corporations  
 3 MICHAEL H. AHRENS,  
 Cal. Bar No. 44766  
 4 ORI KATZ, Cal. Bar No. 209561  
 MICHAEL M. LAUTER,  
 5 Cal Bar No. 246048  
 TIMOTHY C. PERRY,  
 6 Cal. Bar No. 248543  
 Four Embarcadero Center, 17th Floor  
 7 San Francisco, California 94111-4109  
 Telephone: 415-434-9100  
 8 Facsimile: 415-434-3947

9 Attorneys for Debtor ARRIVA  
 PHARMACEUTICALS, INC.

11 UNITED STATES BANKRUPTCY COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 OAKLAND DIVISION

14 In re

15 ARRIVA PHARMACEUTICALS, INC., a  
 16 California corporation,

17 Debtor.

18 Tax ID: 94-3287067

Case No. 07-42767

Chapter 11

**ORDER DISALLOWING CLAIM OF  
 SONORAN DESERT CHEMICALS,  
 LLC (CLAIM NO. 14)**

Date: December 13, 2007

Time: 2:00 p.m.

Place: United States Bankruptcy Court  
 1300 Clay Street, Oakland, CA

Judge: Hon. Edward D. Jellen

Ctrm: 215

24 On October 9, 2007, Sonoran Desert Chemicals, LLC filed a claim (the "Sonoran  
 25 Claim") in an undetermined amount in the above-captioned bankruptcy case (the  
 26 "Bankruptcy Case"). The Sonoran Claim was listed as Claim No. 14 on the claims register  
 27 for the Bankruptcy Case. On November 7, 2007, Arriva Pharmaceuticals, Inc., the debtor  
 28 in the Bankruptcy Case (the "Debtor") objected to the Sonoran Claim in its Omnibus



1 Objection to Claims and Alternative Motion to Value Claims at Zero for Voting Purposes  
2 and its Memorandum of Points and Authorities in support thereof (collectively, the  
3 "Objection"), filed on the docket for the Bankruptcy Case as #'s 154 and 155, respectively.

4 On December 13, 2007, the Court heard argument on the Objection. The  
5 appearances were as indicated in the record. For all the reasons stated on the record, which  
6 reasons constitute the findings of this Court by Bankruptcy Rule 7052,

7 **IT IS HEREBY ORDERED THAT**

8 1. The Objection is sustained. The Sonoran Claim is disallowed in its  
9 entirety, without leave to amend.

10 2. Further, in the event that such a ruling becomes necessary, the  
11 Sonoran Claim is estimated at zero for voting purposes under the Debtor's plan as it  
12 currently exists or is hereafter amended.

13 **\*\* END OF ORDER \*\***  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COURT SERVICE LIST

**1, Counsel for the Official Creditors' Committee**

Michael D. Cooper  
Wendel Rosen Black & Dean, LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607  
(510) 834-6600

**2. Office of the U.S. Trustee /Oakland**

Office of the U.S. Trustee  
Attention: Laurent Chen  
1301 Clay St. #690N  
Oakland, CA 94612  
(510) 637-3200

**3. Attorneys for Sonoran Desert Chemicals, LLC**

Penn Ayers Butler  
Squire, Sanders and Dempsey  
600 Hansen Way  
Palo Alto, CA 94304-1043  
(650) 843-3242

**4. Stuart M. Brown**

Edwards, Angell, Palmer & Dodge LLP  
919 N Market St., 5th Fl.  
Wilmington, DE 19801  
(302) 428-5500

**5. M. David Minnick**

Pillsbury Winthrop Shaw Pittman LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
(415) 983-1351

**6. Nicolas De Lancie**

Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5<sup>th</sup> Floor  
San Francisco, CA 94111  
(415) 984-9675

**7. American Express Bank FSB**

c/o Becket and Lee LLP  
P.O. Box 3001  
Malvern, PA 19355-0701

**8. Baxter Healthcare Corporation**

c/o David M. Wiseblood  
Seyfarth Shaw LLP  
560 Mission Street, Suite 3100  
San Francisco, CA 94105

1 **9. Allan Wachter**  
c/o Chris D. Kuhner  
2 Kornfield, Paul & Nyberg, P.C.  
1999 Harrison Street, Suite 2675  
3 Oakland, CA 94612

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
2 A Limited Liability Partnership  
3 Including Professional Corporations  
4 MICHAEL H. AHRENS, Cal. Bar No. 44766  
5 ORI KATZ, Cal. Bar No. 209561  
6 MICHAEL M. LAUTER Cal. Bar No. 246048  
TIMOTHY C. PERRY, Cal. Bar No. 248543  
Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4106  
Telephone: 415-434-9100  
Facsimile: 415-434-3947

RECEIVED  
Harold S. Marans, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH C.Y.

JAN 10 2008

FILED 1-10-08  
DOCKETED 1-17-08  
DATE INITIAL

7 Attorneys for ARRIVA PHARMACEUTICALS, INC.

8  
9 UNITED STATES BANKRUPTCY APPELLATE PANEL  
10 OF THE NINTH CIRCUIT

11 On Appeal from the United States Bankruptcy Court  
12 for the Northern District of California  
Hon. Edward D. Jellen

13 In re

BAP No. 07-42767

14 ARRIVA PHARMACEUTICALS, INC., a  
15 California corporation,

Case No. 07-42767

16 Debtor-Appellee.

17 Tax ID: 94-3287067

PIH  
STATEMENT OF ELECTION TO  
TRANSFER APPEAL OF SONORAN  
DESERT CHEMICALS, LLC TO THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
CALIFORNIA

18  
19  
20 STATEMENT OF ELECTION

21 The Debtor, Arriva Pharmaceuticals, Inc., hereby elects, pursuant to 28 U.S.C. §  
22 158(c)(1)(B) and Bankruptcy Rule 8001(e)-1, to transfer to the United States District Court  
23 for the Northern District of California the appeal for which Sonoran Desert Chemicals,  
24 LLC filed a notice of appeal on January 4, 2008.

25 Out of an abundance of caution, we briefly address two collateral matters in this  
26 Statement of Election:

27 1. The authorities do not clearly disclose the court in which an appellee must  
28 file the Statement of Election. According to the Amended Order Continuing the

1 Bankruptcy Appellate Panel of the Ninth Circuit, an appellee must "file with the clerk of  
2 the bankruptcy appellate panels a written statement of election." Amended Order, § 3(b).  
3 However, the relevant statute, 28 U.S.C. § 158(c)(1)(B), and Bankruptcy Rule 8001(e)-1,  
4 are silent on the matter. Moreover, Judge Klein has stated, in the context of appellant's  
5 election, the "docket maintained by the bankruptcy court clerk is the designated  
6 clearinghouse for the crucial information." *In re Mackey*, 232 B.R. 784, 788 (9<sup>th</sup> Cir. BAP  
7 1999). As a result, for the convenience of all parties and both courts, we simultaneously  
8 file this Statement of Election with both the United States Bankruptcy Court for the  
9 Northern District of California and the Ninth Circuit Bankruptcy Appellate Panel.

10 2. Because District Judge Illston recently presided over a "related action" as  
11 defined by United States Northern District Local Rule 3-12(a), Arriva apprises this Court  
12 that Arriva intends to file in that Court an Administrative Motion to Consider Whether  
13 Cases Should Be Related under Northern District Local Rule 3-12(b). We attach a copy of  
14 this motion as Exhibit A.

15  
16 DATED: January 9, 2008

17 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

18  
19 By

  
20 TIMOTHY C. PERRY

21 Attorneys for Debtor  
22  
23  
24  
25  
26  
27  
28

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
2 Including Professional Corporations  
MICHAEL H. AHRENS, Cal. Bar No. 44766  
3 ORI KATZ, Cal. Bar No. 209561  
MICHAEL M. LAUTER Cal. Bar No. 246048  
4 TIMOTHY C. PERRY, Cal. Bar No. 248543  
Four Embarcadero Center, 17th Floor  
5 San Francisco, California 94111-4106  
Telephone: 415-434-9100  
6 Facsimile: 415-434-3947

7 Attorneys for ARRIVA PHARMACEUTICALS, INC.

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 On Appeal from the United States Bankruptcy Court  
11 for the Northern District of California  
Hon. Edward D. Jellen

12 In re

13 ARRIVA PHARMACEUTICALS, INC., a  
14 California corporation,

15 Debtor-Appellee.

16 Tax ID: 94-3287067

No. \_\_\_\_\_

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

[Civ. L.R. 3-12]

Action filed: January \_\_, 2008

17  
18  
19 **I. NOTICE OF MOTION & MOTION**

20 Please take notice that pursuant to Civil Local Rule 3-12, debtor-appellee Arriva  
21 Pharmaceuticals, Inc. ("Arriva") hereby submits the following Administrative Motion to Consider  
22 Whether Cases Should Be Related (the "Motion"). In support of the Motion, Arriva files a  
23 Declaration of Michael H. Ahrens (the "Ahrens Declaration"), lead bankruptcy counsel for Arriva.  
24 Arriva has attached to the Ahrens Declaration, as Exhibit A, the three final orders from which the  
25 three related appellants respectively have appealed; as Exhibit B, the transcript of the hearing at  
26 which the United States Bankruptcy Court for the Northern District of California (the "Bankruptcy  
27 Court") read its findings into the record; as Exhibit C, the last substantive order District Judge  
28



1 Illston filed in a previous related case; and as Exhibit D, a printout of the docket in that related  
2 case.

3 Arriva asks that the above-captioned appeal be deemed "related" to two similar  
4 simultaneously-filed bankruptcy appeals, as well as to another case previously docketed before  
5 District Judge Illston. Accordingly, we request that all three appeals be assigned to Judge Illston.

## 6 II. DESCRIPTION OF RELATED CASES

7 On May 10, 1999, Arriva (then doing business primarily as AlphaOne Pharmaceuticals,  
8 Inc.) filed a complaint for damages and declaratory relief in this Court, Case No. 99-cv-02169 (the  
9 "Declaratory Relief Case"). District Judge Illston presided over that case, entering the most recent  
10 substantive order on July 17, 2006, dismissing Arriva's claims and defendants' counterclaims.  
11 That case concluded recently, on December 18, 2006.

12 On September 17, 2007, Arriva filed for Chapter 11 bankruptcy in the Bankruptcy Court in  
13 a case docketed as no. 07-42767. On December 27, 2007, the Bankruptcy Court entered final  
14 orders separately disallowing the claims of Sonoran Desert Chemicals LLC ("Sonoran"),  
15 AlphaMed Pharmaceuticals Corp. ("AlphaMed") and Protease Sciences, Inc. ("PSI"). On January  
16 4, 2008, Sonoran, AlphaMed and PSI separately appealed those final orders to the Ninth Circuit  
17 Bankruptcy Appellate Panel. After Arriva filed three separate Statements of Election,  
18 corresponding to the three separate notices of appeal, the Ninth Circuit Bankruptcy Appellate  
19 Panel transferred the three cases (together, the "Bankruptcy Appeals") to this Court.

## 20 III. DISCUSSION

21 The Bankruptcy Appeals and the Declaratory Relief Case are "related cases" according to  
22 the criteria set forth in Civil Local Rule 3-12(a).

23 First, these cases involve the same parties. Arriva, plaintiff in the Declaratory Relief Case,  
24 is debtor-appellee in the Bankruptcy Appeals. Meanwhile, both Sonoran and PSI were defendants  
25 in the Declaratory Relief Case, are claimants-appellants in the Bankruptcy Appeals. Claimant-  
26 appellant AlphaMed, though technically not a party to the Declaratory Relief Case, is controlled  
27 by the same principals as Sonoran and PSI and asserts interests identical to those of Sonoran and  
28 PSI. (Ex. C, 1-2.)

1 Second, these cases concern the same property. In the Declaratory Relief Case, Arriva  
2 sought to establish its rights to certain intellectual property known as the "Protease/Arriva  
3 License" or "Protease License." As District Judge Illston stated in her opinion, "[t]he validity of  
4 this Protease/Arriva license is the central disputed issue giving rise to this action." (Ex C, 2:16.)  
5 Meanwhile, in the Bankruptcy Appeals, Sonoran, PSI and AlphaMed each challenge the  
6 Bankruptcy Court's disposition of the very same issue, appealing the disallowance of their claims,  
7 based in part on their alleged interests in the Protease/Arriva License. (Ex B, 11:1-20).

8 Third, these cases implicate the same legal issues. In the Declaratory Relief Case, Judge  
9 Illston dismissed Sonoran and PSI's counterclaims because principles of federalism and comity, as  
10 manifest in the *Brillhart* doctrine, *Brillhart v. Excess Ins. Co.*, 316 U.S. 491 (1941), prevented her  
11 from adjudicating the dispute. (Ex B, Judge Illston Order, 7 et seq.) An Arizona Superior Court,  
12 Judge Illston noted, already was considering the issues raised in the Declaratory Relief Case. (Id.)  
13 As Judge Illston held, "comity between this Court and the Arizona Superior Court warrants denial  
14 of jurisdiction." (Id., 7:27-28.) In addition, Judge Illston noted the Arizona Court had issued  
15 injunctions forbidding Sonoran's principals from pursuing in court Sonoran's purported rights to  
16 the Protease/Arriva License. (Id., 13:1-5.)

17 The Bankruptcy Court cited similar reasons in disallowing Sonoran, AlphaMed and PSI's  
18 claims against the bankruptcy estate. The Bankruptcy Court held Sonoran and PSI's principals  
19 could not assert their claims to the Protease/Arriva License without violating the Arizona Court's  
20 injunctions. (Ex B, 11:1-20.) In addition, the Bankruptcy Court relied on principles of federalism  
21 and comity in disallowing the claims AlphaMed. Specifically, the Bankruptcy Court held that the  
22 *Rooker-Feldman* doctrine, *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280  
23 (2005), prohibited it from directly reviewing issues already adjudicated by the Arizona Superior  
24 Court. (Ex B, 10:3-14 & 11:14-20.)

25 As a result of these similarities, assigning the Bankruptcy Appeals to a Judge other than  
26 Judge Illston would result in an unduly burdensome duplication of labor and expense. Civ. L. R.  
27 3-12(a)(1). The Bankruptcy Appeals are procedurally complex. To date, the parties to the  
28 Bankruptcy Appeals have litigated in the Southern District of Florida, Arizona State Court,



1 Nevada State Court, the Bankruptcy Court for the Northern District of California, as well as this  
2 Court—first before Judge Illston, and now with respect to the Bankruptcy Appeals. Fortunately,  
3 however, Judge Illston is already familiar with this history of litigation, having ably outlined its  
4 most salient points in her most recent order. (Ex C, 1-7.)

5 Moreover, the Bankruptcy Appeals are factually complex. Sonoran, PSI and AlphaMed  
6 exist in relation to a myriad of affiliated entities and their principals. Fortunately again, however,  
7 Judge Illston already has become familiar with the relationships among these entities, as  
8 demonstrated in her most recent order. (Ex C, 1-3.)

9 As the lengthy docket of the Declaratory Relief Case reveals, for many years District Judge  
10 Illston maintained an ongoing familiarity with the parties, facts, legal issues and procedural history  
11 implicated by these cases. Indeed, that case concluded only recently, on December 18, 2006.  
12 Accordingly, this Court should deem the Declaratory Relief Case and the three Bankruptcy  
13 Appeals "related cases" for the purposes of Local Civ. Rule 3-12, and assign the Bankruptcy  
14 Appeals to Judge Illston.

#### 15 16 IV. CONCLUSION

17 For the foregoing reasons, we request this Court deem the Declaratory Relief Case  
18 and the Bankruptcy Appeals "related cases" for the purposes of Civil Local Rule 3-12, and  
19 assign these cases to District Judge Illston.

20  
21 DATED: January \_\_, 2008

22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

23  
24 By

25 TIMOTHY C. PERRY

26 Attorneys for Debtor  
27  
28



1 SHEPPARD, MULLIN, RICHTER  
& HAMPTON LLP  
2 A Limited Liability Partnership  
Including Professional Corporations  
3 MICHAEL H. AHRENS  
Cal. Bar No. 44766  
4 ORI KATZ, Cal. Bar No. 209561  
MICHAEL M. LAUTER  
5 Cal. Bar No. 246048  
TIMOTHY C. PERRY  
6 Cal. Bar No. 248543  
Four Embarcadero Center, 17th Floor  
7 San Francisco, California 94111-4106  
Telephone: 415-434-9100  
8 Facsimile: 415-434-3947

9 Attorneys for ARRIVA  
PHARMACEUTICALS, INC.

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 On Appeal from the United States Bankruptcy Court  
14 for the Northern District of California  
Hon. Edward D. Jellen

15 In re

No. \_\_\_\_\_

16 ARRIVA PHARMACEUTICALS, INC., a  
17 California corporation,

18 Debtor-Appellee.

19 Tax ID: 94-3287067

**DECLARATION OF MICHAEL H.  
AHRENS IN SUPPORT OF  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED**

1 I, Michael H. Ahrens, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am  
3 admitted before this Court. I am a partner with the law firm of Sheppard, Mullin, Richter  
4 & Hampton LLP ("Sheppard Mullin"), bankruptcy counsel for Arriva Pharmaceuticals,  
5 Inc., a California corporation ("Arriva"), the debtor-appellee in the above-captioned  
6 appeal. I make this declaration in that capacity. Except for those statements made upon  
7 information and belief, the following facts are based upon my personal knowledge and if  
8 called to testify, I could and would competently testify to such facts. As to those  
9 statements made upon information and belief, I believe them to be true.

10 2. This declaration is submitted in support of Administrative Motion to  
11 Consider Whether Cases Should Be Related (the "Motion").

12 3. The above-captioned bankruptcy appeal is related to a case previously  
13 assigned to District Judge Illston.

14 4. On May 10, 1999, Arriva (then doing business primarily as AlphaOne  
15 Pharmaceuticals, Inc.) filed a complaint for damages and declaratory relief in this Court,  
16 docketed as case No. 99-cv-02169 (the "Declaratory Relief Case"). Judge Illston presided  
17 over that case, entering the most recent substantive order on July 17, 2006, granting  
18 plaintiff's motion to dismiss defendants' declaratory relief counterclaim, conditioned upon  
19 plaintiff's dismissal of claims. That case concluded recently, on December 18, 2006.

20 5. On September 17, 2007, Arriva filed Chapter 11 bankruptcy in the  
21 Bankruptcy Court for the Northern District of California (the "Bankruptcy Court"). That  
22 bankruptcy case is docketed as case no. 07-42767.

23 6. On December 27, 2007, the Bankruptcy Court entered final orders separately  
24 disallowing the claims of Sonoran Desert Chemicals LLC ("Sonoran"), AlphaMed  
25 Pharmaceuticals Corp. ("AlphaMed") and Protease Sciences, Inc. ("PSI").

26 7. On January 4, 2008, Sonoran, AlphaMed and PSI separately appealed those  
27 final orders to the Ninth Circuit Bankruptcy Appellate Panel.  
28

1           8.     On January \_\_\_\_, 2008, Arriva filed three Statements of Election,  
2 corresponding to the three separate notices of appeal.

3           9.     The Ninth Circuit Bankruptcy Appellate Panel transferred the three cases  
4 (together, the "Bankruptcy Appeals") to this Court.

5           10.    The Declaratory Relief Case and the Bankruptcy Appeals involve the same  
6 parties. Arriva, plaintiff in the Declaratory Relief Case, is debtor-appellee in the  
7 Bankruptcy Appeals. Meanwhile, Sonoran and PSI were defendants in the Declaratory  
8 Relief Case, and now are claimants-appellants in the Bankruptcy Appeals. Claimant-  
9 appellant AlphaMed, though not a party to the Declaratory Relief Case, is controlled by the  
10 same principals as Sonoran and PSI and asserts an interest in intellectual property that is  
11 identical to those asserted by Sonoran and PSI.

12           11.    The Declaratory Relief Case and the Bankruptcy Appeals involve the same  
13 property. In the Declaratory Relief Case, Arriva sought to establish its rights to certain  
14 intellectual property known as the "Protease/Arriva license" or "Protease License."  
15 Meanwhile, in the Bankruptcy Appeals, Sonoran, PSI and AlphaMed each challenge the  
16 Bankruptcy Court's disposition of the very same issue, appealing the Bankruptcy Court's  
17 disallowance of their claims, which are based, in part, on their alleged interests in the  
18 Protease/Arriva License.

19           12.    The Declaratory Relief Case and the Bankruptcy Appeals also involve the  
20 same legal issues. In the Declaratory Relief Case, Judge Illston dismissed Sonoran and  
21 PSI's counterclaims because principles of federalism and comity, as manifest in the  
22 *Brillhart* doctrine, *Brillhart v. Excess Ins. Co.*, 316 U.S. 491 (1941), prevented her from  
23 adjudicating the dispute. An Arizona Superior Court, Judge Illston noted, already was  
24 considering the issues raised in the Declaratory Relief Case. In addition, Judge Illston  
25 noted the Arizona Superior Court had issued injunctions forbidding Sonoran's principals  
26 from pursuing in court Sonoran's purported rights to the Protease/Arriva License.

27           13.    Meanwhile, the Bankruptcy Court relied on principles of federalism and  
28 comity in disallowing the claims of AlphaMed. Specifically, the Bankruptcy Court held

1 that the *Rooker-Feldman* doctrine, *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544  
2 U.S. 280 (2005), prohibited it from directly reviewing issues already adjudicated by the  
3 Arizona Superior Court. In addition, the Bankruptcy Court disallowed Sonoran,  
4 AlphaMed and PSI's claims against the bankruptcy estate because Sonoran and PSI's  
5 principals could not assert their claims to the Protease/Arriva License without violating the  
6 Arizona Court's injunctions.

7 14. The Bankruptcy Appeals are procedurally complex. To date, the parties to  
8 the Bankruptcy Appeals have litigated in the Southern District of Florida, Arizona State  
9 Court, Nevada State Court, the Bankruptcy Court for the Northern District of California, as  
10 well as this Court—first before District Judge Illston, and now with respect to the  
11 Bankruptcy Appeals.

12 15. The Bankruptcy Appeals are also factually complex. Sonoran, PSI and  
13 AlphaMed exist in relation to a myriad of affiliated entities and their principals.

14 16. The docket of the Declaratory Relief Case and Judge Illston's most recent  
15 substantive order in that case both demonstrate Judge Illston is familiar with the parties,  
16 facts, legal issues and procedural history implicated by these cases.

17 17. I have contacted claimants-appellants' counsel and have asked whether they  
18 would stipulate that they were willing to proceed before District Judge Illston. Claimants-  
19 appellants' counsel refused to so stipulate.

20  
21 I declare under penalty of perjury under the laws of the United States of America  
22 that the foregoing is true and correct. Executed on January \_\_\_\_\_, 2008, at San Francisco,  
23 California.

24 \_\_\_\_\_  
/s/ Michael H. Ahrens

25 MICHAEL H. AHRENS  
26  
27  
28



Entered on Docket

December 27, 2007

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



Signed: December 27, 2007

EDWARD D. JELLEN  
U.S. Bankruptcy Judge

1 SHEPPARD, MULLIN, RICHTER  
& HAMPTON LLP  
2 A Limited Liability Partnership  
Including Professional Corporations  
3 MICHAEL H. AHRENS,  
Cal. Bar No. 44766  
4 ORI KATZ, Cal. Bar No. 209561  
MICHAEL M. LAUTER,  
5 Cal Bar No. 246048  
TIMOTHY C. PERRY,  
6 Cal. Bar No. 248543  
Four Embarcadero Center, 17th Floor  
7 San Francisco, California 94111-4109  
Telephone: 415-434-9100  
8 Facsimile: 415-434-3947

9 Attorneys for Debtor ARRIVA  
PHARMACEUTICALS, INC.

11 UNITED STATES BANKRUPTCY COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 OAKLAND DIVISION

14 In re

15 ARRIVA PHARMACEUTICALS, INC., a  
California corporation,

16 Debtor.

17 Tax ID: 94-3287067

Case No. 07-42767

Chapter 11

**ORDER DISALLOWING CLAIM OF  
ALPHAMED PHARMACEUTICALS  
CORP. (CLAIM NO. 19)**

Date: December 13, 2007  
Time: 2:00 p.m.  
Place: United States Bankruptcy Court  
1300 Clay Street, Oakland, CA  
Judge: Hon. Edward D. Jellen  
Ctm: 215

21  
22 On October 11, 2007, AlphaMed Pharmaceuticals Corp. filed a claim (the  
23 "AlphaMed Claim") in the amount of \$78 million in the above-captioned bankruptcy case  
24 (the "Bankruptcy Case"). The AlphaMed Claim was listed as Claim No. 19 on the claims  
25 register for the Bankruptcy Case. On November 7, 2007, Arriva Pharmaceuticals, Inc., the  
26 debtor in the Bankruptcy Case (the "Debtor") objected to the AlphaMed Claim in its  
27 Omnibus Objection to Claims and Alternative Motion to Value Claims at Zero for Voting  
28 Purposes and its Memorandum of Points and Authorities in support thereof (collectively,

1 the "Objection"), filed on the docket for the Bankruptcy Case as #'s 154 and 155,  
2 respectively.

3 On December 13, 2007, the Court heard argument on the Objection. The  
4 appearances were as indicated in the record. For all the reasons stated on the record, which  
5 reasons constitute the findings of this Court by Bankruptcy Rule 7052,

6 **IT IS HEREBY ORDERED THAT**

7 1. The Objection is sustained. The AlphaMed Claim is disallowed in its  
8 entirety, without leave to amend.

9 2. Further, in the event that such a ruling becomes necessary, the  
10 AlphaMed Claim is estimated at zero for voting purposes under the Debtor's plan as it  
11 currently exists or is hereafter amended.

12 3. This order does not preclude reconsideration under Bankruptcy Code  
13 Section 502(j) or otherwise based on further developments in the pending Florida  
14 litigation.

15 **\*\* END OF ORDER \*\***  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



COURT SERVICE LIST

**1. Counsel for the Official Creditors' Committee**

Michael D. Cooper  
Wendel Rosen Black & Dean, LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607  
(510) 834-6600

**2. Office of the U.S. Trustee /Oakland**

Office of the U.S. Trustee  
Attention: Laurent Chen  
1301 Clay St. #690N  
Oakland, CA 94612  
(510) 637-3200

**3. Attorneys for AlphaMed Pharmaceuticals Corp.**

Penn Ayers Butler  
Squire, Sanders and Dempsey  
600 Hansen Way  
Palo Alto, CA 94304-1043  
(650) 843-3242

**4. Stuart M. Brown**

Edwards, Angell, Palmer & Dodge LLP  
919 N Market St., 5th Fl.  
Wilmington, DE 19801  
(302) 428-5500

**5. M. David Minnick**

Pillsbury Winthrop Shaw Pittman LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
(415) 983-1351

**6. Nicolas De Lancie**

Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5<sup>th</sup> Floor  
San Francisco, CA 94111  
(415) 984-9675

**7. American Express Bank FSB**

c/o Becket and Lee LLP  
P.O. Box 3001  
Malvern, PA 19355-0701

**8. Baxter Healthcare Corporation**

c/o David M. Wiseblood  
Seyfarth Shaw LLP  
560 Mission Street, Suite 3100  
San Francisco, CA 94105

1 **9. Allan Wachter**  
c/o Chris D. Kuhner  
2 Kornfield, Paul & Nyberg, P.C.  
1999 Harrison Street, Suite 2675  
3 Oakland, CA 94612

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Entered on Docket

December 27, 2007

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

Signed: December 27, 2007

EDWARD D. JELLEN  
U.S. Bankruptcy Judge

1 SHEPPARD, MULLIN, RICHTER  
2 & HAMPTON LLP  
3 A Limited Liability Partnership  
4 Including Professional Corporations  
5 MICHAEL H. AHRENS,  
6 Cal. Bar No. 44766  
7 ORI KATZ, Cal. Bar No. 209561  
8 MICHAEL M. LAUTER,  
9 Cal Bar No. 246048  
10 TIMOTHY C. PERRY,  
11 Cal. Bar No. 248543  
12 Four Embarcadero Center, 17th Floor  
13 San Francisco, California 94111-4109  
14 Telephone: 415-434-9100  
15 Facsimile: 415-434-3947

9 Attorneys for Debtor ARRIVA  
10 PHARMACEUTICALS, INC.

11 UNITED STATES BANKRUPTCY COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 OAKLAND DIVISION

In re

15 ARRIVA PHARMACEUTICALS, INC., a  
16 California corporation,

Debtor.

Tax ID: 94-3287067

Case No. 07-42767

Chapter 11

**ORDER DISALLOWING CLAIM OF  
PROTEASE SCIENCES, INC. (CLAIM  
NO. 12)**

Date: December 13, 2007  
Time: 2:00 p.m.  
Place: United States Bankruptcy Court  
1300 Clay Street, Oakland, CA  
Judge: Hon. Edward D. Jellen  
Ctm: 215

23 On October 9, 2007, Protease Sciences, Inc. filed a claim (the "Protease Claim") in  
24 the amount of \$30 million in the above-captioned bankruptcy case (the "Bankruptcy  
25 Case"). The Protease Claim was listed as Claim No. 12 on the claims register for the  
26 Bankruptcy Case. On November 7, 2007, Arriva Pharmaceuticals, Inc., the debtor in the  
27 Bankruptcy Case (the "Debtor") objected to the Protease Claim in its Omnibus Objection  
28 to Claims and Alternative Motion to Value Claims at Zero for Voting Purposes and its

1 Memorandum of Points and Authorities in support thereof (collectively, the "Objection"),  
2 filed on the docket for the Bankruptcy Case as #'s 154 and 155, respectively.

3 On December 13, 2007, the Court heard argument on the Objection. The  
4 appearances were as indicated in the record. For all the reasons stated on the record, which  
5 reasons constitute the findings of this Court by Bankruptcy Rule 7052,

6 **IT IS HEREBY ORDERED THAT**

7 1. The Objection is sustained. The Protease Claim is disallowed in its  
8 entirety, without leave to amend.

9 2. Further, in the event that such a ruling becomes necessary, the  
10 Protease Claim is estimated at zero for voting purposes under the Debtor's plan as it  
11 currently exists or is hereafter amended.

12 \*\* END OF ORDER \*\*  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COURT SERVICE LIST

**1, Counsel for the Official Creditors' Committee**

Michael D. Cooper  
Wendel Rosen Black & Dean, LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607  
(510) 834-6600

**2. Office of the U.S. Trustee /Oakland**

Office of the U.S. Trustee  
Attention: Laurent Chen  
1301 Clay St. #690N  
Oakland, CA 94612  
(510) 637-3200

**3. Attorneys for Protease Sciences, Inc.**

Penn Ayers Butler  
Squire, Sanders and Dempsey  
600 Hansen Way  
Palo Alto, CA 94304-1043  
(650) 843-3242

**4. Stuart M. Brown**

Edwards, Angell, Palmer & Dodge LLP  
919 N Market St., 5th Fl.  
Wilmington, DE 19801  
(302) 428-5500

**5. M. David Minnick**

Pillsbury Winthrop Shaw Pittman LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
(415) 983-1351

**6. Nicolas De Lancie**

Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5<sup>th</sup> Floor  
San Francisco, CA 94111  
(415) 984-9675

**7. American Express Bank FSB**

c/o Becket and Lee LLP  
P.O. Box 3001  
Malvern, PA 19355-0701

**8. Baxter Healthcare Corporation**

c/o David M. Wiseblood  
Seyfarth Shaw LLP  
560 Mission Street, Suite 3100  
San Francisco, CA 94105

1 **9. Allan Wachter**  
2 c/o Chris D. Kuhner  
3 Kornfield, Paul & Nyberg, P.C.  
1999 Harrison Street, Suite 2675  
Oakland, CA 94612

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





Entered on Docket

December 27, 2007

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



Signed: December 27, 2007

EDWARD D. JELLEN  
U.S. Bankruptcy Judge

SHEPPARD, MULLIN, RICHTER  
& HAMPTON LLP  
A Limited Liability Partnership  
Including Professional Corporations  
MICHAEL H. AHRENS,  
Cal. Bar No. 44766  
ORI KATZ, Cal. Bar No. 209561  
MICHAEL M. LAUTER,  
Cal. Bar No. 246048  
TIMOTHY C. PERRY,  
Cal. Bar No. 248543  
Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4109  
Telephone: 415-434-9100  
Facsimile: 415-434-3947

Attorneys for Debtor ARRIVA  
PHARMACEUTICALS, INC.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

In re

ARRIVA PHARMACEUTICALS, INC., a  
California corporation,

Debtor.

Tax ID: 94-3287067

Case No. 07-42767

Chapter 11

**ORDER DISALLOWING CLAIM OF  
SONORAN DESERT CHEMICALS,  
LLC (CLAIM NO. 14)**

Date: December 13, 2007

Time: 2:00 p.m.

Place: United States Bankruptcy Court  
1300 Clay Street, Oakland, CA

Judge: Hon. Edward D. Jellen

Ctrm: 215

On October 9, 2007, Sonoran Desert Chemicals, LLC filed a claim (the "Sonoran Claim") in an undetermined amount in the above-captioned bankruptcy case (the "Bankruptcy Case"). The Sonoran Claim was listed as Claim No. 14 on the claims register for the Bankruptcy Case. On November 7, 2007, Arriva Pharmaceuticals, Inc., the debtor in the Bankruptcy Case (the "Debtor") objected to the Sonoran Claim in its Omnibus

1 Objection to Claims and Alternative Motion to Value Claims at Zero for Voting Purposes  
2 and its Memorandum of Points and Authorities in support thereof (collectively, the  
3 "Objection"), filed on the docket for the Bankruptcy Case as #'s 154 and 155, respectively.

4 On December 13, 2007, the Court heard argument on the Objection. The  
5 appearances were as indicated in the record. For all the reasons stated on the record, which  
6 reasons constitute the findings of this Court by Bankruptcy Rule 7052,

7 **IT IS HEREBY ORDERED THAT**

8 1. The Objection is sustained. The Sonoran Claim is disallowed in its  
9 entirety, without leave to amend.

10 2. Further, in the event that such a ruling becomes necessary, the  
11 Sonoran Claim is estimated at zero for voting purposes under the Debtor's plan as it  
12 currently exists or is hereafter amended.

13 **\*\* END OF ORDER \*\***  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COURT SERVICE LIST

**1. Counsel for the Official Creditors' Committee**

Michael D. Cooper  
Wendel Rosen Black & Dean, LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607  
(510) 834-6600

**2. Office of the U.S. Trustee /Oakland**

Office of the U.S. Trustee  
Attention: Laurent Chen  
1301 Clay St. #690N  
Oakland, CA 94612  
(510) 637-3200

**3. Attorneys for Sonoran Desert Chemicals, LLC**

Penn Ayers Butler  
Squire, Sanders and Dempsey  
600 Hansen Way  
Palo Alto, CA 94304-1043  
(650) 843-3242

**4. Stuart M. Brown**

Edwards, Angell, Palmer & Dodge LLP  
919 N Market St., 5th Fl.  
Wilmington, DE 19801  
(302) 428-5500

**5. M. David Minnick**

Pillsbury Winthrop Shaw Pittman LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
(415) 983-1351

**6. Nicolas De Lancie**

Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5<sup>th</sup> Floor  
San Francisco, CA 94111  
(415) 984-9675

**7. American Express Bank FSB**

c/o Becket and Lee LLP  
P.O. Box 3001  
Malvern, PA 19355-0701

**8. Baxter Healthcare Corporation**

c/o David M. Wiseblood  
Seyfarth Shaw LLP  
560 Mission Street, Suite 3100  
San Francisco, CA 94105

1 **9. Allan Wachter**  
c/o Chris D. Kuhner  
2 Kornfield, Paul & Nyberg, P.C.  
1999 Harrison Street, Suite 2675  
3 Oakland, CA 94612

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(OAKLAND DIVISION)

In re:

ARRIVA PHARMACEUTICALS, INC., Case No. 07-42767J  
Chapter 11  
Oakland, California  
December 13, 2007  
3:14 p.m.

Debtor.

ALPHAMED PHARMACEUTICALS,  
Plaintiff,

v.

A.P. No. 07-4181 AJ

ARRIVA PHARMACEUTICALS, INC.,  
Defendant.

TRANSCRIPT OF PROCEEDINGS  
JUDGE'S RULING ONLY

1. MOTION OF JOHN LEZDEY FOR AUTHORITY TO FILE  
LATE PROOF OF CLAIM
2. DEBTOR'S OMNIBUS OBJECTION TO CLAIMS
3. DEBTOR'S MOTION FOR ORDER REQUIRING COMPLIANCE WITH  
FEDERAL RULE OF CIVIL PROCEDURE 2019
4. MOTION FOR RELIEF FROM STAY FILED BY  
ALPHAMED PHARMACEUTICALS
5. DEFENDANT'S MOTION TO DISMISS COMPLAINT  
FILED BY ALPHAMED

BEFORE THE HONORABLE EDWARD D. JELLEN  
UNITED STATES BANKRUPTCY JUDGE

1 APPEARANCES:

2 For the Debtor:

SHEPPARD, MULLIN, RICHTER &  
HAMPTON, LLP

3 BY: MICHAEL H AHRENS, ESQ.

4 TIMOTHY C. PERRY, ESQ.

MICHAEL M. LAUTER, ESQ.

5 Four Embarcadero Center, 17<sup>th</sup> Floor  
San Francisco, California 94111

6

7 For the Creditors'  
Committee:

WELNDEL, ROSEN, BLACK & DEAN

8 BY: MICHAEL COOPER, ESQ.

TRACY GREEN, ESQ.

9 1111 Broadway, 24<sup>th</sup> Floor

Oakland, California 94607

10

11 For Alphamed:

SQUIRE, SANDERS & DEMPSEY, LLP

12 BY: DOUGLAS J. ROVENS, ESQ.

555 South Flower Street, 31<sup>st</sup> Floor

13 Los Angeles, California 90071

14

-and-

15

SQUIRE, SANDERS & DEMPSEY, LLP

16 BY: PENN AYERS BUTLER, ESQ.

600 Hansen Way

17 Palo Alto, California 94304

18

19 For MPM Capital:

EDWARDS & ANGELL, LLP

20 BY: ERICA LAZAR, ESQ.

21

(APPEARING TELEPHONICALLY)

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES (CONTINUED):

Court Recorder: T. LEYBA  
UNITED STATES BANKRUPTCY COURT  
1300 Clay Street  
Oakland, California 94612

Transcription Service: Jo McCall  
Electronic Court  
Recording/Transcribing  
2868 E. Clifton Court  
Gilbert, AZ 85297  
Telephone: (480) 361-3790

1 P R O C E E D I N G S

2 December 13, 2007

3:14 p.m.

3 -oOo-

4 THE COURT: All right. I'll call Arriva  
5 Pharmaceuticals. I understand we have a telephone  
6 appearance. May I have the telephone appearance first.

7 MS. LAZAR: Yes, Your Honor. This is Erica Lazar.  
8 I'm here on behalf of MPM entities.

9 THE COURT: All right. Ms. Lazar, could you spell  
10 your last name for the record, please?

11 MS. LAZAR: Yes, it's L-a-z-a-r.

12 THE COURT: All right. Thank you. And now the in  
13 court appearances.

14 MR. AHRENS: Your Honor, Michael Ahrens, Tim Perry  
15 and Mike Lauter for the Debtor, of Sheppard Mullin.

16 THE COURT: All right.

17 MR. COOPER: Michael Cooper, Wendel, Rosen, Black  
18 and Dean for the Official Creditors' Committee. With me  
19 today, Your Honor, is my colleague, Tracy Green.

20 THE COURT: Okay. Thank you.

21 MR. ROVENS: Good afternoon, Your Honor, Doug  
22 Rovens and Penn Butler on behalf of Alphamed  
23 Pharmaceuticals.

24 THE COURT: All right. Thank you.

25 (Whereupon, the following colloquy is not transcribed and



1 the matter is recalled at 3:14 p.m. for the ruling.)

2 THE COURT: Okay. Then I'm recalling Arriva  
3 Pharmaceuticals. Appearances have previously been stated,  
4 so there is no need for the parties to restate their  
5 appearances. I believe everybody has been given a chance  
6 to have their say, so unless there's somebody who stated an  
7 appearance who wants to be heard that hasn't been heard,  
8 I'm ready to announce rulings.

9 All right. With that, let me take what I  
10 consider to be the easiest one first, and that's Alphamed's  
11 motion for relief from the automatic stay. I'm going to  
12 grant that motion to the extent of permitting the appeals  
13 to go forward as far as they might go without prejudice to  
14 renewal of the motion or a motion to expand the scope of  
15 the relief in the event that a new trial should be ordered,  
16 but I would like to retain that discretion, depending on  
17 what's going on in the main case at the time. So the  
18 reasons are not very complex. I just don't think it's the  
19 province of a Bankruptcy Court to tell a Court of Appeals  
20 that they can't hear a matter when a timely appeal has been  
21 filed or requested, and major issues remain to be resolved,  
22 especially issues that did not arise under the Bankruptcy  
23 Code or in connection with the bankruptcy case.

24 And so I believe Alphamed is entitled to its day  
25 in court to get a final decision in the Florida matter so

1 Mr. Butler or whoever as the case may be, would you submit  
2 an order in that regard.

3 MR. BUTLER: Yes, Your Honor.

4 THE COURT: All right.

5 The second easiest matter as far as I'm concerned  
6 is the Rule 2019 motion which I'm going to deny. I think  
7 the Squires firm has gone on record as to the fact of its  
8 representation to the various entities and I think the  
9 relationship among them is well known to all the parties in  
10 interest. There's no secret connections here that appear  
11 to have surfaced. I think everybody knows what everybody  
12 else's economic incentive is. I don't think Squires  
13 disclosing its particular fee arrangements are going to  
14 advance the ball in terms of anything involving a stated  
15 administration. The parties are well known to each other,  
16 and I think what has been disclosed is sufficient. So  
17 again, I'll ask Mr. Butler to submit an order denying that  
18 motion.

19 MR. BUTLER: Thank you, Your Honor.

20 THE COURT: All right. As to the Debtor's motion  
21 to dismiss Alphamed's complaint, I'm going to grant that  
22 motion under Rule 12(b)(6). First of all, I'm holding that  
23 Alphamed has no standing to bring this action. The  
24 gravamen of the action is that they want a ruling that the  
25 license is not property of the estate and they've alleged

1 no particularized harm. The standing issue in a bankruptcy  
2 case is the leading case is the Fondular case (Phonetic).  
3 It's 707 F2d, 441, where to have standing an entity must  
4 demonstrate that the order at issue or at issue before the  
5 Court may diminish the property of the plaintiff or  
6 increase its burdens or detrimentally affect its rights.

7 Subsequent cases, including cases under Circuits,  
8 have clarified that the matter can't be one that generally  
9 affects creditors. For example, one court said that,  
10 quote:

11 "If a claim is a general one with no  
12 particularized injury arising from it, and if  
13 that claim could be brought by any creditor of  
14 the debtor, the trustee is the proper person to  
15 assert the claim and the creditors are bound by  
16 the outcome of the trustee's action."

17 That's the Call Vorhes & Company versus American Financial  
18 Corp. (Phonetic) 8 F3d, 130, 2<sup>nd</sup> Circuit ('93). There are  
19 lots and lots of cases along the same lines. Here, I don't  
20 think that there's been any particularized injury alleged  
21 at all by Alphamed. They're not trying to quiet their own  
22 title to anything. In fact, they disclaim any intent of  
23 trying to quiet their own title to an asset as against the  
24 claim of the estate. They're not even seeking a ruling as  
25 to who if anyone might own the license other than the

1 Debtor. They just want to get it out of the estate. That  
2 sort of cause of action is not particularized, generalized.  
3 There's no specific injury. If there were standing to  
4 assert such a cause of action, it would lie in every single  
5 creditor in the estate, and the law is that not every  
6 single creditor in the estate has the right to prosecute  
7 actions to determine what is and isn't property of the  
8 estate. Rather, under Bankruptcy Code Section 323(a), the  
9 trustee is the representative of the estate, and here,  
10 under Chapter 11, the Debtor in Possession has all the  
11 powers of a trustee.

12 I read the Catholic Diocese case, which seemed to  
13 suggest that any creditor can bring an action to determine  
14 the properties in the estate. I have two reasons for  
15 rejecting that case. First, it's distinguishable on its  
16 facts. There, it was an action to bring in property of the  
17 estate not to exclude property from the estate. Secondly,  
18 at least the party in the Catholic Diocese case was a  
19 creditor, where here, based on the record as it now stands,  
20 Alphamed is not a creditor. The judgment of the Florida  
21 Court found to the contrary.

22 So those are two major reasons for distinguishing  
23 the Catholic Diocese case. But frankly, to carry it one  
24 step further, I just think that case is wrongly decided,  
25 and I'm not bound by it, and I don't want to follow it.

1 The court did not cite Section 323(a) of the Bankruptcy  
2 Code. The court did not cite the Fondular case. It didn't  
3 cite any of the standing cases in bankruptcy cases that  
4 have been resolved by the Ninth Circuit or the Ninth  
5 Circuit BAP, recently, the Fulks (Phonetic) case at 211 BR  
6 378 where the BAP went through all of the factors that  
7 govern standing in bankruptcy cases.

8 If the Catholic Diocese case is correct, then any  
9 creditor can bring any action to exclude property or bring  
10 property into the estate without any particularized injury  
11 whatsoever, and I just don't think that's the law.

12 So to the extent that the Catholic Diocese case  
13 is not distinguishable, I just think it violates well  
14 established Ninth Circuit law, and I decline to follow it.  
15 Moreover, if any creditor could bring actions that affect  
16 the estate, notwithstanding 323(a), then who has the  
17 authority to settle the case? Who has the authority to  
18 appeal the case? I think the cases that deal with the  
19 standings issue are very well reasoned to the effect that  
20 you can only have one party doing that and that's the  
21 representative of the estate, in this case the Debtor in  
22 Possession, without all of the creditors running around  
23 willy-nilly bringing actions to bring in property of the  
24 estate or to exclude property of the estate.

25 So to the extent Catholic Diocese would support

1 Alphamed's position, I decline to follow it and believe  
2 that it is not correctly decided.

3           As an alternate ground for my ruling, I think  
4 that Alphamed is indeed subject to the Rucker-Feldman  
5 (Phonetic) doctrine. Recently, the Supreme Court has  
6 stated that Rucker-Feldman is a very narrow one. In the  
7 Exxon-Mobile case, at 125 Supreme Court, 1517, they  
8 indicated that the Supreme Court has only found the Rucker-  
9 Feldman doctrine to be applicable in two cases over the  
10 years. But the two cases involved the situation as noted  
11 by the Supreme Court where the party lost in the State  
12 Court and then filed a Federal action seeking similar  
13 relief and in that specific case, the Federal Court is  
14 bound by the State Court ruling.

15           On top of Rucker-Feldman, there is a statute, 28  
16 U.S.C. 1738, which is the full faith and credit statute  
17 which required Federal Courts to give full faith and credit  
18 to decisions of State Courts, and here, I have to give full  
19 faith and credit to the Florida Court's ruling. This of  
20 course is all subject to modification should that ruling be  
21 overturned on appeal.

22           So Mr. Ahrens, I will ask you to please submit an  
23 order granting the motion to dismiss Alphamed's complaint.

24           MR. AHRENS: I will, Your Honor. Thank you.

25           THE COURT: As to the omnibus objection, the



1 omnibus objection will be sustained as to Prodius  
2 (Phonetic). The record is clear that Mr. Lezdey filed the  
3 claim on behalf of Prodius. He filed it in violation of a  
4 preliminary injunction. I do not believe that the  
5 injunction in any way restricts or limits Federal Courts or  
6 Federal Court jurisdiction. All it does is restrict Mr.  
7 Lezdey from what he can do on behalf of Prodius, and the  
8 answer is he can't do anything, and that was a matter of  
9 non-bankruptcy State law as to what his authority is, Mr.  
10 Lezdey's authority as to Prodius, and so I reject the  
11 argument that not letting him file the claim for Prodius is  
12 in derogation of any Federal jurisdiction.

13 For the exact same reason I sustain the omnibus  
14 objection as to Sonoran. As to Alphamed, I believe I've  
15 discussed my reasons why the objection to its claim is to  
16 be sustained, although that ruling is again subject to  
17 being revisited -- this ruling is subject to being  
18 revisited in the event that the Florida Court ends up  
19 finding that Alphamed does have a valid claim against the  
20 Debtor.

21 I also sustain the omnibus objection as to Jamie  
22 Holding (Phonetic), which I believe is bound by the  
23 findings in the Arizona litigation on the theory, if  
24 nothing else, that it was in privity with the particular  
25 parties.



1           And finally, I sustain the objection as to Mr.  
2 John Lezdey. First -- and in doing so, I also deny the  
3 motion to allow his late-filed claim. Everybody here is  
4 familiar with the Pioneer case by the Supreme Court which  
5 cited a series of factors the court is to look at: the  
6 danger of prejudice to the debtor, the length of the delay  
7 and its potential impact on judicial proceedings, the  
8 reason for the delay including whether it was in the  
9 reasonable control of the movant and whether the movant  
10 acted in good faith. Here, although not every one of the  
11 factors dictates in favor of the Debtor's objection, I do  
12 find that the filing of the claim was under the reasonable  
13 control of the movant. Indeed, Mr. Lezdey was able to file  
14 claims on behalf of his other entities on a timely basis,  
15 and no explanation, plausible explanation, has been offered  
16 as to why if he thought he had a claim, he couldn't do it  
17 on behalf of himself.

18           I also find that he did not act in good faith in  
19 filing his claim. Just the claim on its face is lacking in  
20 any kind of specificity. I don't even think it gives  
21 reasonable notice as to the basis for the claims, and this  
22 is especially true in light of the history of litigation  
23 between Mr. Lezdey and the Debtor and the findings of the  
24 State Court.

25           On top of denying the motion to file the late

1 claim, I would deny the motion on the -- I would disallow  
2 his claim; I'm backing up a little -- based on the shares  
3 and the theft and I.P. loss and the malicious prosecution  
4 claims for the reasons outlined by the Debtor in the  
5 objection which I'm not going to go through. I reject the  
6 Debtor's arguments that the lack of any records on the  
7 Debtor's part is a basis for disallowing the claim. I  
8 reject the Debtor's argument that the fact that there's no  
9 judgment is a basis for disallowing the claim. But as to  
10 those three items, I accept the remaining arguments as a  
11 basis for disallowing Mr. Lezdey's claim.

12 As to the spinal injury and defamation, the  
13 Bankruptcy Court's jurisdiction to rule on personal injury  
14 claims is limited. They seem to be personal injury claims,  
15 so that in the event that it turns out that the -- my  
16 ruling on the late claim is overturned by a higher court, I  
17 believe that the spinal injury and defamation claims would  
18 have to be litigated in District Court. It would be my  
19 intention to recommend that the reference be withdrawn as  
20 to litigating those matters.

21 I think I've ruled on everything.

22 MR. AHRENS: Your Honor, on J.L. Technology, the  
23 ruling is the same as Jamie?

24 THE COURT: Yes. Yes, thank you. I'm sorry about  
25 that.

1 MR. AHRENS: We will prepare that order.

2 THE COURT: All right. And my statements on the  
3 record will constitute my findings and conclusions.

4 Oh, there is one motion I didn't rule on, and  
5 that's the motion to estimate. As a backup and alternative  
6 ruling, I'm going to estimate each of the claims at issue  
7 as zero, based -- for the same reasons I choose to disallow  
8 them. So if a backup ruling on that is needed as an  
9 alternative ground, I would estimate them as zero. I do  
10 not believe that I need to make factual findings if the  
11 basis for the disallowance is based on law as opposed to  
12 findings of fact, and that is I believe the case here.

13 MR. AHRENS: Thank you, Your Honor. I just have  
14 one housekeeping matter.

15 THE COURT: Yes.

16 MR. AHRENS: Yesterday, Mr. Butler and myself and  
17 Mr. Cooper all agreed upon the form of the Disclosure  
18 Statement and order to be entered. Should we upload that  
19 tonight or do you -- we also have a copy of the Disclosure  
20 Statement order.

21 THE COURT: I could -- if you've got a copy right  
22 here and it'll move things along, I could sign it.

23 MR. AHRENS: And then per the order of the Court,  
24 we will be mailing out the Plan package on Monday.

25 THE COURT: All right. Did anybody have any

1 continuing objections to the Disclosure Statement that have  
2 not been resolved, without conceding any confirmation  
3 issues, of course?

4 All right, Mr. Ahrens, you've made all the  
5 changes that have been ordered?

6 MR. AHRENS: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. AHRENS: Thank you, Your Honor. I think that  
9 concludes the matters for today.

10 THE COURT: All right. Thank you all. Madam  
11 Deputy, I believe that concludes our court for today.

12 THE CLERK: Yes, Your Honor.

13 THE COURT: All right. Thank you.

14 (Whereupon, the proceedings are concluded at 3:30  
15 p.m.)

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript from the digital sound recording of the proceedings in the above-entitled matter.

DATED: December 29, 2007

By:           /s/ Jo McCall

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARRIVA PHARMACEUTICALS, INC. fka  
ALPHAONE PHARMACEUTICALS, INC., a  
California corporation,

Plaintiff,

v.

SONORAN DESERT CHEMICALS, LLC, etc.,  
et al.,

Defendants.

No. C 99-02169 SI

**ORDER GRANTING PLAINTIFF'S  
MOTION TO DISMISS DEFENDANTS'  
DECLARATORY RELIEF  
COUNTERCLAIM, CONDITIONED  
UPON PLAINTIFF'S DISMISSAL OF  
CLAIMS**

AND RELATED COUNTERCLAIMS.

On June 23, 2006, the Court heard argument on plaintiff's motion to dismiss defendants' counterclaim for declaratory relief. Having considered the arguments of counsel and the papers submitted, and for good cause appearing, the Court hereby GRANTS plaintiff's motion for the reasons and on the conditions set forth below.

**BACKGROUND<sup>1</sup>**

**1. Parties and factual history**

This action arises from a dispute between two former business partners, Dr. Allan Wachter ("Wachter"), a medical doctor, and defendant John Lezdey ("Lezdey"), a patent attorney. In the early

<sup>1</sup>Much of the factual history appears in both parties' moving papers and are therefore assumed to be uncontested. Citations are therefore provided only when a fact is disputed or appears only in the filings of one party.

1 1990s, Wachter and Lezdey invented and jointly acquired patents for medical technologies related to  
2 the treatment of inflammation. In 1992, Wachter and Lezdey transferred their interests in the patents  
3 to defendant Sonoran Desert Chemicals Limited (“Sonoran”). Sonoran is 50% owned by Wachter  
4 through two holding companies, Nathan M. Technologies and Seth Chemicals, and 50% owned by  
5 Lezdey, also through two holding companies, J.L. Technology LP and J & D Science, Inc.

6 Shortly after forming Sonoran, Wachter and Lezdey formed Protease Sciences, Inc. (“Protease”)  
7 and authorized Protease to serve as Sonoran’s agent for, among other things, negotiating and entering  
8 into licensing agreements on behalf of Sonoran. Protease was originally owned 50% by Wachter and  
9 his family and 50% by Lezdey and his family. At the time, Wachter and Lezdey were Protease’s sole  
10 board members. The identity of Protease’s current owners and board members is a matter of dispute  
11 between Wachter and Lezdey. *See* Def. Counterclaim, ¶ 11; Decl. of Grant L. Kim In Support of  
12 Arriva’s Motion to Dismiss (“Kim Decl.”), Ex. 23, at 5-19.

13 On April 16, 1998, Protease entered into a purported License Agreement with plaintiff Arriva  
14 Pharmaceuticals, Inc. (“Arriva”),<sup>2</sup> then known as AlphaOne Pharmaceuticals, under which Protease  
15 granted Arriva exclusive license to utilize the Sonoran patents in specified medical fields. Pl. Compl.  
16 Ex.1. The validity of this Protease/Arriva license is the central disputed issue giving rise to this action.  
17 Wachter alone signed the agreement on behalf of Protease, but Arriva contends that Lezdey advised and  
18 approved the execution of the agreement. Pl. Compl. ¶ 13. Lezdey, on the other hand, alleges that the  
19 agreement was unlawfully executed without his knowledge or consent. Def. Counterclaim ¶ 19.

20 At some point following the execution of the Protease/Arriva license, Arriva entered into a sub-  
21 license with counter-Defendant Baxter Healthcare Corporation (“Baxter”) that provided Baxter with  
22 specified rights to the patents. The validity of this sub-license is also disputed by Lezdey. Def. Compl.  
23 ¶ 23.

24 AlphaMed Pharmaceuticals (“AlphaMed”) is the final relevant party to the dispute. AlphaMed  
25 was formed by Lezdey and his family in 1999. In the same year, AlphaMed purportedly received a  
26 license from Protease for its patents. Arriva alleges that the Protease/AlphaMed license is invalid and  
27

---

28 <sup>2</sup>Arriva is owned by Wachter, Lezdey and others.



1 violates the terms of the Protease/Arriva exclusive licensing agreement. Compl. ¶¶ 27-30.

2  
3 **2. This action: Filing and stay**

4 After Lezdey allegedly questioned the validity of the Protease/Arriva license and the  
5 Arriva/Baxter sub-license in discussions with Arriva's board members, potential investors and business  
6 partners, Arriva and Wachter filed multiple lawsuits, including this action. In May 1999, Arriva filed  
7 the complaint before this Court, naming seven defendants: Lezdey, Lezdey's two sons (Jarrett and  
8 Darren Lezdey), Sonoran, Protease, and Lezdey's two holding companies, J&D Science and J.L.  
9 Technology.<sup>3</sup> Shortly after the filing of this complaint, Wachter filed his own complaint in Arizona state  
10 court, raising similar issues and naming the same seven defendants plus Lezdey's wife, Noreen.

11 After this Court denied Arriva's motion for a temporary restraining order, the parties agreed to  
12 a stay of this federal action, pending the outcome of the related Arizona case. In particular, the parties  
13 noted that the Arizona court was adjudicating issues related to the ownership of Protease and to the  
14 validity of actions taken by Protease with respect to Arriva, and that these issues could have a significant  
15 impact on this action. Kim Decl., Ex. 3, Joint Case Management Statement of December 2, 1999, at 2.  
16 The stay took effect in December 1999.

17  
18 **3. Arizona court litigation: Preliminary injunction<sup>4</sup>**

19 In February 2000, the Arizona state court, following an evidentiary hearing attended by Lezdey,  
20 issued a preliminary injunction that prohibited Lezdey, his sons or either of his two holding companies  
21 from "acting or speaking, or purporting to act or speak, on behalf of Protease or Sonoran without  
22 Plaintiffs' [Wachter's] consent." Kim Decl., Ex. 4, Preliminary Injunction of February 2, 2000, at 13.  
23 The injunction also prohibited the defendants from contacting any of Arriva's potential business partners  
24 and investors or otherwise interfering with Arriva's business operations. *Id.*

25  
26 <sup>3</sup>Arriva's complaint also includes employment-related causes of action against Lezdey's sons,  
27 who subsequently filed counterclaims against Arriva. Issues related to these causes of action are not the  
subject of this motion and are therefore not discussed.

28 <sup>4</sup>This Court takes judicial notice of the Arizona court orders and pleadings.

1 More importantly for this matter, the Arizona court issued extensive Findings of Fact along with  
2 its Order. These findings include:

- 3 • “Lezdey knew the material terms and conditions of the [Protease/Arriva] License  
4 Agreement, advised Wachter that the Agreement was valid, and approved Wachter’s  
5 execution thereof.” *Id.*, ¶ 41.
- 6 • The Protease/Arriva license is “valid and enforceable.” *Id.*, ¶ 61

7 In November 2000, the Arizona Superior Court added to its finding through an amendment to  
8 the preliminary injunction. The court further found that the Protease/AlphaMed license was improperly  
9 created and that John Lezdey had testified untruthfully in his deposition regarding the AlphaMed  
10 license. Kim Decl., Ex.6, Amended Injunction, at 2-3. All other findings were confirmed. *Id.*

11 Lezdey and his sons did not appeal the Arizona court’s preliminary injunction.

#### 13 **4. Arizona court litigation: Permanent injunction**

14 Following a series of delays, including an unsuccessful attempt by Lezdey to have the case  
15 removed to a federal court in Arizona, a bench trial took place in January 2002. The trial was not  
16 without its peculiarities. Despite repeated advance notice, neither Lezdey, his sons, his wife nor their  
17 counsel attended the trial.<sup>5</sup> In addition, in the month preceding the trial, the Arizona court had entered  
18 a liability judgment against Lezdey’s sons as a sanction for their failure to appear for depositions. The  
19 trial against Lezdey’s sons, therefore, was on the issue of damages only. Another factor complicating  
20 the trial was Lezdey’s declaration of bankruptcy on the day immediately preceding the trial’s  
21 commencement, thereby automatically staying the case against him. Notwithstanding these  
22 complications, the court conducted a bench trial against Lezdey’s sons (on damages only), his wife  
23 Noreen and J.L. Technology.<sup>6</sup> The trial included multiple hours of witness testimony and the  
24 introduction of almost 300 exhibits. Kim Reply Decl., Ex. A, Tierney Affidavit, ¶ 21.

---

26 <sup>5</sup>Lezdey contends that ill health and financial difficulties prevented him and his family from  
27 attending the trial. The Arizona court rejected this argument. Kim Decl., Ex. 15 at 5.

28 <sup>6</sup>Lezdey’s other holding company, J & D Science, was not a party to the trial, having also filed  
for bankruptcy in the week prior to trial.

1 On February 22, 2002, the Arizona Court issued a final judgment against Lezdey's sons and J.L.  
2 Technology.<sup>7</sup> In addition to awarding Wachter \$17.4 million in compensatory and punitive damages,  
3 the court issued a permanent injunction against Lezdey's sons and J.L. Technology that mirrored its  
4 preliminary injunction. Moreover, the court found that the Protease/Arriva license was "valid and  
5 enforceable" and remained "fully in effect." Kim Decl., Ex. 8, Permanent Injunction, ¶¶ 38, 61. The  
6 court further found that John Lezdey had violated his fiduciary duty to Wachter, Protease, Sonoran and  
7 Arriva by, among other things, preparing false documents and improperly interfering with Arriva's  
8 business operations and prospective business partners. Lastly, the court found the Protease/AlphaMed  
9 license to be "wholly void and of no effect." *Id.*, ¶ 72.

10 Lezdey's sons and J.L. Technology unsuccessfully appealed the Arizona judgment and  
11 permanent injunction.

12 Although the validity of the Protease/Arriva license would appear to have been decided in the  
13 Arizona litigation, defendants argue that this Court should discount the Arizona court's ruling for two  
14 primary reasons. First, as a result of the bankruptcy stay, John Lezdey was not a direct party to the  
15 Arizona trial, the final judgment or the permanent injunction.<sup>8</sup> Second, the judgment against Lezdey's  
16 sons resulted from a discovery sanction and not from evidence produced at trial. For these reasons,  
17 defendants assert that Lezdey and his sons have not had an adequate opportunity to litigate the license  
18 issue.

19  
20 **5. Arizona court litigation: Pending suit against John Lezdey**

21 In July 2002, the Bankruptcy Court lifted the automatic stay that had prevented Wachter from  
22 pursuing his claims against Lezdey in the Arizona litigation. As a result of numerous postponements,  
23 a trial date has yet to be determined. However, the Arizona court has scheduled a conference between  
24 the parties and a newly assigned Superior Court judge on August 25, 2006 to schedule a trial date. The  
25

26 <sup>7</sup>The Arizona Superior Court also entered judgment against Lezdey's wife Noreen. This  
27 judgment was vacated on appeal.

28 <sup>8</sup>Lezdey was, however, indirectly a party to the trial and its result as a co-owner of J.L. Technology LP.

1 parties' Pretrial Statement indicates that the validity of the Protease/Arriva license will once again be  
2 a central issue.<sup>9</sup> Kim Reply Decl., Ex. D, Joint Pretrial Statement, filed June 21, 2004, at 12 (xiv)-(xv),  
3 19 (xv)-(xxii).

4  
5 **6. Arizona court litigation: Contempt proceedings against John Lezdey**

6 Lezdey's relationship with the Arizona Superior Court has not been good. He has been held in  
7 contempt of court on three separate occasions: first, in October 2000, for testifying untruthfully during  
8 his deposition and refusing to appear at a later deposition; second, in February 2002, for willfully  
9 violating the court's preliminary injunction by interfering with Arriva's business operations and acting  
10 on behalf of Protease without Wachter's consent; and in September 2003, for failing to pay previously  
11 imposed sanctions, for continuing to violate the preliminary injunction, and for repeatedly delaying the  
12 Arizona action through bad faith procedural actions.

13 In its final contempt order, the Arizona court specifically found that Lezdey's filing of the  
14 federal counterclaim in this case on behalf of Sonoran without Wachter's consent was a violation of the  
15 preliminary injunction and has ordered Lezdey to dismiss the Sonoran counterclaim in this court.

16 The Arizona contempt proceedings had one additional and important outcome. In November  
17 2004, as a sanction for Lezdey's continued disregard of the various contempt orders, the Arizona court  
18 dismissed with prejudice all of Lezdey's counterclaims against Wachter in the Arizona litigation.  
19 Lezdey and Sonoran rely heavily on this inability to bring a counterclaim in Arizona court in their  
20 opposition to the motion under consideration here.

21  
22 **7. Florida litigation: AlphaMed v. Arriva**

23 In 2003, AlphaMed, the company controlled by Lezdey and his sons, filed a tort suit against  
24 Arriva in Florida federal court, claiming that Arriva had misappropriated trade secrets and engaged in  
25 unfair competition. A trial resulted in a jury verdict in favor of AlphaMed. However, on May 26, 2006,  
26 the Florida district court granted Arriva's motion for judgment as a matter of law. AlphaMed has filed  
27

28 <sup>9</sup>Whether Lezdey will be collaterally estopped from re-litigating the license validity issue is an open question.



1 a notice of appeal.

## 3 DISCUSSION

4 Arriva seeks an order dismissing the declaratory relief counterclaim by defendants Lezdey and  
5 Sonoran, on the grounds that the central issue in the counterclaim - the validity of the Protease/Arriva  
6 license - is the subject of ongoing litigation in an Arizona state court, and that this Court's involvement  
7 is therefore duplicative and unnecessary. Arriva argues alternatively that defendant Sonoran's  
8 counterclaim should be dismissed because Sonoran lacks capacity to assert the counterclaim without  
9 Wachter's consent.<sup>10</sup>

### 11 1. Dismissal of Lezdey and Sonoran's counterclaim based on the *Brillhart* factors

12 Under the express terms of the Declaratory Judgment Act, the granting of declaratory relief by  
13 a district court is discretionary. *See* 28 U.S.C.A. § 2201(a) (West 2006); *Cont'l Cas. Co. v. Robsac*  
14 *Indus.*, 947 F.2d 1367, 1369 (9th Cir. 1991). Although a pending state action does not require a district  
15 court to refuse declaratory relief jurisdiction, when the state action presents the same state law issues  
16 as the federal action, "there exists a presumption that the entire suit should be heard in state court."  
17 *Chamberlain v. Allstate Ins. Co.*, 931 F.2d 1361, 1366-67 (citing *Brillhart v. Excess Ins. Co.*, 316 U.S.  
18 491, 495 (1942)).

19 Three primary factors govern a federal court's decision to grant declaratory relief jurisdiction  
20 when a related action is pending in state court: (1) avoidance of duplicative litigation, (2) avoidance of  
21 needlessly determining issues of state law, and (3) discouragement of forum shopping by either party.  
22 *See Brillhart*, 316 U.S. at 495; *Robsac*, 947 F.2d at 1371; *Am. Nat'l Fire Ins. Co. v. Hungerford*, 53 F.3d  
23 1012, 1016-19 (9th Cir. 1995), *overruled on other grounds*, *Gov't Employees Ins. v. Dizol*, 133 F.3d  
24 1220, 1227 (9th Cir. 1998). An analysis of these factors may entail an inquiry into, among other  
25 things, the scope of the state action, the availability of remedies and defenses, and the involvement of  
26

---

27 <sup>10</sup>Arriva represented in its moving papers that if the counterclaim is dismissed, Arriva will  
28 withdraw its claims against Lezdey and Sonoran, as well as its claims against three related companies.  
The discussion which follows is conditioned on Arriva's doing so.

1 necessary parties. *Brillhart*, 316 U.S. at 495.

2 Both parties agree that the validity of the Protease/Arriva license is “at the heart of this . . .  
3 counterclaim for declaratory and injunctive relief.” Kim. Decl., Ex. 21, at 3. Plaintiff Arriva therefore  
4 argues that, because the license’s validity has been and continues to be the subject of extensive litigation  
5 in Arizona state court, retrying the issue in this Court would: (a) be duplicative and wasteful, (b) require  
6 an unnecessary determination of state law, and (c) encourage defendant Lezdey’s bad faith efforts to  
7 forum shop and otherwise disrupt the Arizona litigation. Defendants Lezdey and Sonoran counter by  
8 arguing that the validity of the license has not been extensively litigated in Arizona, that this Court is  
9 better suited to decide the issue and that Arriva is the party guilty of forum shopping.

10  
11 **A. First *Brillhart* factor: Duplicative litigation of license validity**

12 The Court concludes that the Protease/Arriva license issue has already been extensively litigated  
13 in the Arizona court, and that any litigation in this court would be duplicative. The license’s validity  
14 was a specific finding in the court’s final judgment and permanent injunction against Lezdey’s sons and  
15 J.L. Technology and in its preliminary injunction order against Lezdey. The preliminary injunction was  
16 issued after a two-day evidentiary hearing in which both Lezdey and his counsel participated. The final  
17 judgment and permanent injunction followed a bench trial that included multiple hours of testimony and  
18 the introduction of almost 300 exhibits. Kim Reply Decl., Ex. A, Tierney Affidavit, ¶ 21. Moreover,  
19 during the more than 7 years that the litigation has been pending in Arizona court, Lezdey and his  
20 counsel have filed an answer and counterclaims, actively participated in discovery and submitted  
21 numerous motions. Finally, to the extent that this history of litigation is insufficient, defendant Lezdey  
22 will have the opportunity to once again litigate the license issue in the upcoming trial against him in  
23 Arizona state court.

24 Defendants Lezdey and Sonoran argue that litigation of the license issue would not be  
25 duplicative because plaintiff Arriva and counter-Defendant Baxter are not parties in the Arizona  
26 litigation. However, the Ninth Circuit has held that dismissal of a federal declaratory relief claim may  
27 be warranted even when the parties to a related state court proceeding are not identical to those in the  
28 federal action. *See Am. Nat’l Fire Ins. Co. v. Hungerford*, 53 F.3d 1012, 1015 (9th Cir. 1995). This

1 is particularly true when the state court has already developed a factual record and/or will effectively  
2 decide the issue about which declaratory relief is sought. *See id.* at 1017. In *Hungerford*, an insurance  
3 company filed a federal claim against one of its customers seeking a declaration of non-coverage. *Id.*  
4 at 1015. The insured was involved in a related state court proceeding that shared many of the  
5 underlying facts with the federal action. *Id.* However, the insurance company was “not a party to [the  
6 California state] action and could not, under California law, have been joined as a party or had the issue  
7 of insurance coverage heard in the California proceeding.” *Id.* at 1016. Nonetheless, the Ninth Circuit  
8 dismissed the insurance company’s declaratory relief claim. *Id.* at 1019. The court held that the state  
9 court was a more suitable forum for the insurance company’s declaratory relief claim because the state  
10 court had already developed an extensive factual record while the federal record was “barren.” *Id.* at  
11 1017. Trying the insurance company’s claim in federal court would therefore “result in a waste of  
12 federal resources at every level of the decision making process.” *Id.* at 1018; *see also McGraw-Edison*  
13 *Co. v. Performed Line Products Co.*, 362 F.2d 339, 344-345 (9th Cir. 1966) (dismissing defendant’s  
14 declaratory relief counterclaim on the grounds that the issue would be effectively decided in a related  
15 Ohio District Court case even though defendant was not a party to the Ohio case and could not be bound  
16 by its result).

17 With regard to the present action, the Arizona court has developed a much more extensive  
18 factual record than this Court. The Arizona litigation has involved considerable discovery (in which  
19 Lezdey and Sonoran have participated), multiple evidentiary hearings and a bench trial that resulted in  
20 a lengthy findings of fact. The factual record before this Court is, on the other hand, essentially  
21 “barren.” *See Hungerford*, 53 F.3d at 1017. In addition, as discussed previously, the Protease/Arriva  
22 license issue will be decided by the Arizona court even though Arriva and Baxter are not party to the  
23 Arizona proceedings. Defendants distinguish *Hungerford* by arguing that a key factor in the  
24 *Hungerford* court’s dismissal was the availability of declaratory relief in state court. *See Hungerford*,  
25 53 F.3d at 1018. While the defendants in this case have admittedly been barred from bringing a  
26 declaratory relief claim in the Arizona court, the remedy’s unavailability is the result of defendant  
27 Lezdey’s contemptuous acts, not as a result of a procedural hurdle. In striking Lezdey’s counterclaims,  
28 Arizona Superior Court Judge Armstrong noted, “To protect and preserve the integrity of the judicial

1 system, Defendant [Lezdey] should not be permitted to press claims in the Court while openly defying  
2 its authority.” Declaration of John C. Steele in Support of Lezdey and Sonoran’s Opposition (“Steele  
3 Decl.”), Ex. C, Superior Court of Arizona Order, at 2. Lezdey has not appealed this decision.  
4 Furthermore, Lezdey’s explanation for his behavior towards the Arizona court - that plaintiff Arriva and  
5 Wachter are participating in a malicious scheme to bankrupt Lezdey and his family in which the Arizona  
6 court is complicit - is unpersuasive. Def. Opposition at 7, 12.

7 Defendants also argue that, because the Arizona court’s judgment against Lezdey’s sons was the  
8 result of a discovery sanction and not the result of evidence produced at trial, the license issue has not  
9 actually been litigated in the Arizona court. This argument is flawed for two reasons. First, none of the  
10 cases cited by either party requires that an issue have been *actually litigated* in state court. The cases  
11 only require that the issue be the subject of *pending* state litigation. A well-developed factual record  
12 in state court, not a final judgment, is the relevant factor. *See Hungerford*, 53 F.3d at 1016. Even  
13 assuming that the defendants are correct and the rules of collateral estoppel will not prevent re-litigation  
14 of the license’s validity in this Court or the Arizona court, the validity of the Protease/Arriva license will  
15 be a main issue in the pending Arizona trial against John Lezdey. Second, although Lezdey’s sons were  
16 the subject of the discovery sanction, another defendant in the 2002 Arizona trial and final judgment,  
17 the Lezdey holding company J.L. Technology, had not been the subject of sanctions. The evidence  
18 presented at trial was therefore necessary for a finding of its liability.

19 In summary, judicial economy would be best served by allowing the Arizona state court to  
20 decide (to the extent it has not already decided) the Protease/Arriva license validity issue. The Arizona  
21 court has already developed a factual record on the issue through a previous trial and related discovery  
22 (in which defendants Lezdey and Sonoran have participated) and will continue to hear evidence and  
23 argument on the issue in the upcoming trial of John Lezdey. Re-litigating the same issue in this Court  
24 would therefore be unnecessarily duplicative.

25  
26 **B. Second *Brillhart* factor: Unnecessary determination of state law**

27 The Court also concludes that comity between this Court and the Arizona Superior Court  
28 warrants denial of jurisdiction. The Supreme Court in *Brillhart* instructed that “gratuitous interference



1 with the orderly and comprehensive disposition of a state court litigation should be avoided.” *Brillhart*,  
2 316 U.S. at 495. In *Hungerford*, the Ninth Circuit noted that even if declaratory judgment would help  
3 clarify the legal issue pending before a state court, “such clarification would only come at the cost of  
4 increasing friction between state and federal courts, and would constitute an improper encroachment  
5 on state court jurisdiction.” *Hungerford*, 53 F.3d at 1019. The court was particularly concerned about  
6 the risk that the state and federal courts might reach different conclusions when interpreting the same  
7 facts. *Id.* at 1019 n.7. In *McGraw-Edison*, the Ninth Circuit concluded that “it is well settled . . . that  
8 a declaratory judgment may be refused . . . where it is being sought merely to determine issues which  
9 are involved in a case already pending and can be properly disposed of therein.” *McGraw-Edison*, 362  
10 F.2d at 343. Finally, where “the sole basis of [federal] jurisdiction is diversity of citizenship, the federal  
11 interest is at its nadir.” *Robson*, 947 F.2d at 1371.

12 Here, the sole basis for jurisdiction is diversity. Second, as in *Hungerford* and *McGraw-Edison*,  
13 the license issue is one of state, not federal, law. Even if, as the defendants contend, the license issue  
14 should be governed by California rather than Arizona law, it is nonetheless a state law issue. Third,  
15 because the validity of the Protease/Arriva license was a direct finding of the Arizona court in the 2002  
16 trial and will be an issue in the upcoming trial, there exists the risk that this Court’s ruling would  
17 directly conflict with the Arizona court’s ruling. This is the precise risk that the *Hungerford* court  
18 envisioned and consciously avoided. Finally, from a pragmatic standpoint, the fact that significant  
19 discovery and fact-finding have taken place in the Arizona court and not in this Court makes the Arizona  
20 court a more suitable forum for resolution of the license issue.

21  
22 **C. Third *Brillhart* factor: Avoidance of forum shopping**

23 Finally, the Court finds that dismissal is warranted to avoid forum shopping by the defendants.  
24 The parties agreed to stay this litigation to allow the Arizona suit to proceed; now, after obtaining  
25 several adverse rulings in Arizona, defendants seek a more favorable forum. The Ninth Circuit has  
26 discouraged such opportunistic maneuvering. *See Am. Casualty Co. v. Krieger*, 181 F.3d 1113, 1119  
27 (9th Cir. 1999) (upholding district court’s granting of declaratory relief on the grounds that it helped  
28 prevent the defendants, who had lost several motions in federal court, from “wiping the slate clean and

1 starting this litigation anew in state court on the eve of their federal court trial.”)

2 Defendant Lezdey has also been formally rebuked for forum shopping and other delay tactics  
3 by multiple courts. The Arizona District Court sternly reprimanded and sanctioned Lezdey for  
4 attempting a second removal of the state case to federal court. Kim Decl., Ex. 12 at 2:5. A Florida  
5 Bankruptcy Court judge was equally direct; while dismissing a motion by Lezdey in 2003, Judge  
6 Timothy Corcoran noted that “it appears that this motion is just one more attempt by the debtor [Lezdey]  
7 to avoid or delay trial in the Arizona action by engaging in improper forum shopping . . . the debtor’s  
8 conduct is even more egregious than was apparent in previous papers.” Kim Decl., Ex. 11, Order  
9 Denying Debtor’s Motion for Temporary or Preliminary Relief, at 20. Finally, in the last of its three  
10 contempt orders against Lezdey, the Arizona Superior Court specifically cited Lezdey’s repeated, bad  
11 faith efforts to delay the Arizona trial through forum shopping. Kim Decl., Ex. 17, Order dated  
12 September 10, 2003 at 2, ¶ 6.

13  
14 **2. Dismissal of Sonoran’s counterclaim**

15 Arriva argues alternatively that Sonoran’s counterclaim should be dismissed on the grounds that,  
16 by law, Sonoran lacks capacity to file the counterclaim because it does not have Wachter’s  
17 authorization. This Court agrees.

18 Arriva argues that Sonoran, by the terms of its own Operating Agreement<sup>11</sup> and the rulings of  
19 the Arizona court, can only lawfully bring a counterclaim with the consent of Dr. Wachter. This  
20 authorization is, of course, lacking. The Sonoran Operating Agreement requires that Lezdey or Wachter  
21 get the consent of the other before acting on behalf of Sonoran, provided that either party supplies  
22 written notice that their consent is required. Kim Decl., Ex. 20, Sonoran Operating Agreement, at 3.1.  
23 Arriva contends that Wachter provided Lezdey with the required written notice when he filed various  
24 motions with the Arizona court requesting that Lezdey be prohibited from acting on behalf of Sonoran  
25

26 <sup>11</sup>According to Federal Rule of Civil Procedure 17(b), Sonoran’s capacity to sue is governed by  
27 Nevada law, the state of its incorporation. Under Nevada law, the decision to file a lawsuit must be  
28 made by members of the company in proportion to their capital contribution unless the corporation’s  
operating agreement provides an alternate procedure, as is the case here. Nev. Rev. Stat §§ 86.281 and  
86.291.

1 without Wachter's consent. Arriva further argues that the Arizona court's preliminary injunction, which  
2 specifically prohibited Lezdey from acting for Sonoran without Wachter's consent, created a second  
3 legal obligation. This second obligation is reinforced by the fact that the Arizona court found Lezdey  
4 to be in violation of the injunction when he filed this counterclaim on behalf of Sonoran - a decision that  
5 Lezdey unsuccessfully attempted to appeal.

6 Defendants do not contest any of the above facts. Instead, defendants argue that this Court  
7 implicitly rejected the lack of capacity argument when it granted defendants leave to file their  
8 counterclaims. Providing leave to file a claim, however, is not a decision on that claim's merits. In fact,  
9 in a later order denying Lezdey's request for a TRO prohibiting enforcement of the Arizona injunction,  
10 this Court noted that its decision to allow the counterclaims "was not intended to, and did not, express  
11 any opinion concerning the validity of the Arizona injunction then in place against Mr. Lezdey." Kim  
12 Reply Decl., Ex. E, Order Filed October 17, 2003.

13 Since Lezdey and Sonoran do not contest the key facts presented by Arriva, this Court concludes  
14 that Sonoran lacks the capacity to sue without Wachter's consent.

### 16 CONCLUSION

17 For the foregoing reasons and for good cause shown, the Court hereby GRANTS plaintiff's  
18 motion to dismiss defendants' counterclaims for declaratory relief (Docket No. 129).<sup>12</sup> This dismissal  
19 is conditioned upon plaintiff filing a dismissal without prejudice of its claims against Lezdey, Sonoran  
20 and the remaining defendants other than Lezdey's sons Jarrett and Darren within 7 days of the filing  
21 date of this Order. Following plaintiff's dismissal, the only claims remaining before this Court will be  
22 Arriva's two employment-related causes of action against Darren and Jarrett Lezdey and Darren and  
23 Jarrett Lezdey's counterclaims for back pay, breach of contract and other employment-related issues.  
24 These remaining claims will be the subject of the parties' next case management conference, scheduled  
25

---

26 <sup>12</sup>Since defendants' request for injunctive relief is derivative of its declaratory relief claim, that  
27 claim is likewise dismissed by this Order. See *Golden Eagle Ins. Co. v. Travelers Cos.*, 103 F.3d 750,  
28 755 (holding that, when an action consists of a declaratory relief claim and a non-declaratory claim that  
is "wholly dependent upon a favorable decision" on the declaratory claim, the entire action is one for  
declaratory relief).

1 for July 28, 2006.

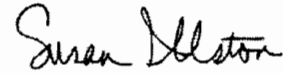
2

3 **IT IS SO ORDERED.**

4

5 Dated: July 5, 2006

6



---

SUSAN ILLSTON  
United States District Judge

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

ADRMOP, CLOSED, ICMS, ProSe

**U.S. District Court  
California Northern District (San Francisco)  
CIVIL DOCKET FOR CASE #: 3:99-cv-02169-SI**

Alphaone Pharmaceuti v. Sonoran Desert Chem, et al  
Assigned to: Judge Susan Illston  
Demand: \$0  
Cause: 28:1332 Diversity-Property Damage

Date Filed: 05/10/1999  
Date Terminated: 12/18/2006  
Jury Demand: Both  
Nature of Suit: 380 Personal Property:  
Other  
Jurisdiction: Diversity

**Plaintiff****Alphaone Pharmaceuticals, Inc.**represented by **Grant L. Kim**

Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105  
415-268-7359  
Fax: 415-268-7522  
Email: gkim@mofo.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Kurt E. Springmann**  
Morrison & Foerster LLP  
425 Market St  
San Francisco, CA 94105-2482  
(415) 268-7000  
*TERMINATED: 03/28/2006*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael A. Jacobs**  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105  
(415) 268-7455  
Fax: (415) 268-7522  
Email: mjacobs@mofo.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jason A. Crotty**  
Morrison & Foerster LLP

425 Market St.  
San Francisco, CA 94105-2482  
(415) 268-6381  
Fax: 415-268-7522  
Email: jcrotty@mofo.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Sonoran Desert Chemicals, L.L.C.**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
Titchell Maltzman Mark & Ohleyer  
650 California St  
25th Flr  
San Francisco, CA 94108  
(415) 392-5600  
Email: rjc@tmmo.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
Zelle, Hofmann  
550 S.Hope Street  
Suite 1600  
Los Angeles, CA 90071-2228  
(213) 895-4150  
Email: drovens@ssd.com  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
Zelle, Hofmann, Voelbel, Mason &  
Gette LLP  
550 South Hope Street  
Suite 1600  
Los Angeles, CA 90071  
213-895-4150  
Fax: 213-895-4155  
Email: slamb@zelle.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**J.L. Technology L.P.**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**J&D Science, Inc.**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**John Lezdey**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**John Christopher Steele**  
550 S.Hope Street  
Suite 1600  
Los Angeles, CA 90071  
213-895-4150  
Email: [jsteele@zelle.com](mailto:jsteele@zelle.com)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**



(See above for address)  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Jarett Lezdey**

represented by **Jarett Lezdey**  
1018 Laurel Oak Road  
Suite 4  
Voorhees, NJ 08043  
PRO SE

**Defendant**

**Darren Lezdey**

represented by **Darren Lezdey**  
John Lezdey & Associates  
4625 E Bay Drive  
Ste 302  
Clearwater, FL 33764  
PRO SE

**Defendant**

**Protease Sciences, Inc.**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Counter-defendant**

**Baxter Healthcare Corporation**

**Trustee**

**Andrea P. Bauman**  
*Chapter 7 Trustee for the Bankruptcy*  
*Estates of defendants and*  
*counterclaimants Darren B. Lezdey*

represented by **Andrew W. Lennox**  
Jennis Bowen & Brundage, PL  
400 N. Ashley Drive, Suite 2540  
Tampa, FL 33602



and Jarett R. Lezdey

813-229-1700  
Fax: 813-229-1707  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter-claimant**

**Sonoran Desert Chemicals, L.L.C.**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Counter-claimant**

**John Lezdey**  
*TERMINATED: 07/14/2006*

represented by **Richard J. Collier**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas John Rovens**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Steven Andrew Lamb**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Counter-defendant**

**Alphaone Pharmaceuticals, Inc.**

represented by **Kurt E. Springmann**  
(See above for address)  
*TERMINATED: 03/28/2006*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael A. Jacobs**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
05/10/1999	1	COMPLAINT for Damages and Declaratory Relief ; Summons(es) issued; Fee status pd entered on 5/10/99 in the amount of \$ 150.00 ( Receipt No. 3300893); jury demand [3:99-cv-02169] (cgd, COURT STAFF) (Entered: 05/14/1999)
05/11/1999	2	EX-PARTE APPLICATION before Judge Maxine M. Chesney by Plaintiff Alphaone Pharmaceuti for temporary restraining order [3:99-cv-02169] (cgd, COURT STAFF) (Entered: 05/14/1999)
05/11/1999	3	DECLARATION by Kurt E. Springmann on behalf of Plaintiff Alphaone Pharmaceuti re motion for temporary restraining order [2-1] [3:99-cv-02169] (cgd, COURT STAFF) (Entered: 05/14/1999)
05/11/1999	4	DECLARATION by Philip J. Barr on behalf of Plaintiff Alphaone Pharmaceuti re motion for temporary restraining order [2-1] [3:99-cv-02169] (cgd, COURT STAFF) (Entered: 05/14/1999)
05/11/1999	5	ORDER RE COURT PROCEDURE and SCHEDULE by Judge Maxine M. Chesney : Proof of service to be filed by 6/25/99 ; counsels' case management statement to be filed by 9/7/99 ; initial case management conference will be held 10:30 9/17/99 . (cc: all counsel) (cgd, COURT STAFF) (Entered: 05/14/1999)
05/11/1999	6	DECLARATION by Allan M. Wachter on behalf of Plaintiff Alphaone Pharmaceuti re motion for temporary restraining order [2-1] [3:99-cv-02169] (cgd, COURT STAFF) (Entered: 05/14/1999)
05/14/1999	7	RESPONSE by defendant John Lezdey re motion for temporary restraining order [2-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 05/17/1999)
05/14/1999	8	DECLARATION by John Lezdey on behalf of defendant John Lezdey re response [7-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 05/17/1999)
05/17/1999	9	MINUTES: ( C/R Rosita Flores) ( Hearing Date: 5/17/99) denying plaintiff's motion for temporary restraining order [2-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 05/20/1999)
06/02/1999	10	RETURN OF SERVICE of summons and complaint executed upon

		defendants on 5/17, 5/22, 5/25 [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/03/1999)
06/10/1999	11	ANSWER by defendant Jarett Lezdey to complaint [1-1]; jury demand [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/15/1999)
06/14/1999	12	STIPULATION and ORDER by Judge Maxine M. Chesney : extending time to answer to 6/21/99 (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/15/1999)
06/21/1999	13	ANSWER by defendant J.L. Technology L.P. to complaint [1-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/21/1999	14	ANSWER by defendant J&D Science, Inc. to complaint [1-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/21/1999	15	ANSWER by defendant Protease Sciences to complaint [1-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/21/1999	16	ANSWER by defendant Sonoran Desert Chem to complaint [1-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/21/1999	17	ANSWER by defendant John Lezdey to complaint [1-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/21/1999	18	REPORTER'S TRANSCRIPT; Date of proceedings: 5/17/99 ( C/R: Rosita Flores) minutes [9-1] [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/22/1999)
06/22/1999	19	ANSWER TO COUNTERCLAIM to defendant Darren Lezdey's counterclaim [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/23/1999)
06/22/1999	20	ANSWER TO COUNTERCLAIM to defendant Jarett Lezdey's counterclaim [3:99-cv-02169] (ab, COURT STAFF) (Entered: 06/23/1999)
08/11/1999	21	CLERK'S NOTICE Case Management Statement is due 9/17/99 ; Case Management Conference set for 10:30 9/24/99 [3:99-cv-02169] (ab, COURT STAFF) (Entered: 08/16/1999)
08/12/1999	22	STIPULATION and ORDER by Judge Maxine M. Chesney : Case Management Conference set for 12/10/99 (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 08/19/1999)
12/02/1999	23	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ab, COURT STAFF) (Entered: 12/06/1999)
12/08/1999	24	STIPULATION and ORDER by Judge Maxine M. Chesney : Case



		Management Conference set for 3/24/00 ; Case Management Statement is due 3/17/00 (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 12/10/1999)
03/20/2000	25	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ab, COURT STAFF) (Entered: 03/21/2000)
03/23/2000	26	STIPULATION and ORDER by Judge Maxine M. Chesney : Case Management Statement is due 9/15/00 ; Case Management Conference set for 9/22/00 (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 03/27/2000)
09/12/2000	27	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ab, COURT STAFF) (Entered: 09/12/2000)
09/13/2000	28	STIPULATION and ORDER by Judge Maxine M. Chesney : Case Management Statement is due 1/26/00 ; Case Management Conference set for 2/2/01 (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 09/14/2000)
01/31/2001	29	CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ga, COURT STAFF) (Entered: 02/09/2001)
02/01/2001	31	STIPULATION and ORDER by Judge Maxine M. Chesney : vacating case management conference , further stay of litigation (cc: all counsel) [3:99-cv-02169] (ab, COURT STAFF) (Entered: 02/14/2001)
02/06/2001	30	MOTION before Judge Maxine M. Chesney by defendant Darren Lezdey for summary judgment unnoticed [3:99-cv-02169] (ab, COURT STAFF) (Entered: 02/14/2001)
03/05/2001	32	PROOF OF SERVICE by defendant Darren Lezdey of [3:99-cv-02169] (ga, COURT STAFF) (Entered: 03/16/2001)
03/09/2001	33	ORDER by Judge Maxine M. Chesney denying without prejudice motion for summary judgment [30-1] ( Date Entered: 3/22/01) (cc: all counsel) [3:99-cv-02169] (ga, COURT STAFF) (Entered: 03/22/2001)
04/03/2001	34	MAIL [33-1] addressed to defendant Jarett Lezdey returned from Post Office [3:99-cv-02169] (ga, COURT STAFF) (Entered: 04/13/2001)
07/09/2001	35	JOINT CASE MANAGEMENT CONFERENCE STATEMENT filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 07/12/2001)
07/13/2001	36	MINUTES: ( C/R none) ( Hearing Date: 7/13/01) Court inquired

		about pending case in Arizona. Case Management Statement is due 2/1/02 ; Case Management Conference set for 10:30 2/8/02 ; [3:99-cv-02169] (aaa, COURT Staff) (Entered: 07/17/2001)
07/13/2001	37	STIPULATION and ORDER re further stay of litigation by Judge Maxine M. Chesney : (cc: all counsel) [3:99-cv-02169] (aaa, COURT Staff) (Entered: 07/17/2001)
02/01/2002	38	NOTICE OF BANKRUPTCY; DECLARATION OF JOHN LEZDEY by defendant J&D Science, Inc., defendant John Lezdey [3:99-cv-02169] (aaa, COURT Staff) (Entered: 02/04/2002)
02/01/2002	39	CASE MANAGEMENT STATEMENT filed. of defendant John Lezdey; J&D Sciences, Inc.; Sonoran Desert Chemicals, LLC; JL Technology, L.P., and Protease Sciences, Inc., [3:99-cv-02169] (aaa, COURT Staff) (Entered: 02/04/2002)
02/04/2002	40	PLAINTIFF'S CASE MANAGEMENT STATEMENT filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 02/06/2002)
02/08/2002	41	MINUTES: ( C/R None) (Further Case Management Conference (Held) Hearing Date: 2/8/02) Case Management Statement is due 7/5/02; Stay remains in effect ; Case Management Conference CONTINUED for 10:30 7/12/02 ; Plaintiff's counsel informed the Court that trial in Arizona was held and some of the defendants declared bankruptcy [3:99-cv-02169] (aaa, COURT Staff) (Entered: 02/12/2002)
07/05/2002	42	PLAINTIFF'S CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 07/08/2002)
07/09/2002	43	PLAINTIFF'S CASE MANAGEMENT STATEMENT [3:99-cv-02169] (aaa, COURT Staff) (Entered: 07/11/2002)
01/03/2003	44	NOTICE by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant John Lezdey, defendant Protease Sciences of association of attorney Douglas J. Rovens, Steven A. Lamb [3:99-cv-02169] (aaa, COURT Staff) (Entered: 01/06/2003)
01/03/2003	45	DEFENDANTS' CASE MANAGEMENT STATEMENT filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 01/06/2003)
01/08/2003	46	PLAINTIFF'S CASE MANAGEMENT STATEMENT filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 01/10/2003)
01/09/2003	47	DECLARATION by David C. Tierney on behalf of Plaintiff Alphaone Pharmaceuti IN CONJUNCTION WITH CASE MANAGEMENT CONFERENCE [3:99-cv-02169] (aaa, COURT

		Staff) (Entered: 01/10/2003)
01/09/2003	48	DECLARATION by Edwin G. Rice on behalf of Plaintiff Alphaone Pharmaceuti IN CONJUNCTION WITH CASE MANGEMENT CONFERENCE [3:99-cv-02169] (aaa, COURT Staff) (Entered: 01/10/2003)
01/10/2003	49	MINUTES: ( C/R None) ( Further Case Management Conference (Held) before the Honorable Maxine M. Chesney; Hearing Date: 1/10/03) Stay is lifted at all Defendant's Request pursuant to 2/1/01 stipulation and order. Joint Case Management Statement is due 3/21/03 ; Case Management Conference CONTINUED for 10:30 3/28/03 ; Defendant wants to file cross-complaints (and lift stay in case) [3:99-cv-02169] (aaa, COURT Staff) (Entered: 01/14/2003)
03/21/2003	50	JOINT CASE MANAGEMENT STATEMENT filed. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 03/25/2003)
03/28/2003	51	MINUTES: ( C/R None) (Further Case Management Conference (Held) by the Honorable Maxine M. Chesney; Hearing Date: 3/28/03) Court Directs Docket Clerk to "Unfile" Sonoran Desert Counterclaim & Delete Entry from Docket. Defendant Sonoran Desert is Directed to File a Motion to File Counterclaim. Joint Case Management Statement is due 7/18/03 ; Case Management Conference CONTINUED for 10:30 7/25/03 ; 5/30/03 Hearing in Phoenix Action [3:99-cv-02169] (aaa, COURT Staff) Modified on 04/01/2003 (Entered: 04/01/2003)
05/13/2003	52	NOTICE OF MOTION AND MOTION WITH MEMORANDUM OF POINTS AND AUTHORITIES before Judge Maxine M. Chesney by defendant Sonoran Desert Chem, defendant John Lezdey for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof with Notice set for 6/13/03 @ 9:00 a.m. [3:99-cv-02169] (aaa, COURT Staff) (Entered: 05/15/2003)
05/13/2003	53	NOTICE OF LODGING COUNTERCLAIM by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant John Lezdey, defendant Jarett Lezdey, defendant Darren Lezdey, defendant Protease Sciences [3:99-cv-02169] (aaa, COURT Staff) (Entered: 05/15/2003)
05/19/2003	54	NOTICE of CONTINUING hearing by defendant Sonoran Desert Chem, defendant John Lezdey setting motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1] ; hearing set for 9:00 6/27/03 [3:99-cv-02169] (aaa, COURT Staff) (Entered: 05/21/2003)



06/06/2003	55	OPPOSITION by Plaintiff Alphaone Pharmaceuti to motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/10/2003)
06/06/2003	56	DECLARATION by Paul J. Riley on behalf of Plaintiff Alphaone Pharmaceuti re opposition to motion for leave to file counterclaim [55-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/10/2003)
06/06/2003	57	PROOF OF SERVICE by Plaintiff Alphaone Pharmaceuti of declaration [56-1], opposition [55-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/10/2003)
06/13/2003	58	REPLY BRIEF FILED by defendant Sonoran Desert Chem, defendant John Lezdey regarding motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support of Motion for Leave to File Counterclaim Thereof [52-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/17/2003)
06/13/2003	59	DECLARATION by Douglass J. Rovens on behalf of defendant Sonoran Desert Chem, defendant John Lezdey re reply brief in support of motion for leave to file counterclaim [58-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/17/2003)
06/13/2003	60	PROOF OF SERVICE by defendant Sonoran Desert Chem, defendant John Lezdey of declaration [59-1], brief [58-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/17/2003)
06/18/2003	61	ORDER CONTINUING HEARING by Judge Maxine M. Chesney setting hearing on motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1] 9:00 7/25/03 ( Date Entered: 6/24/03) (cc: all counsel) [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/24/2003)
06/19/2003	62	STATEMENT of RECENT DECISION IN FURTHER by Plaintiff Alphaone Pharmaceuti in further support of opposition to Defendant's Motion for Leave to File Counterclaim [55-1] [3:99-cv-02169] (aaa, COURT Staff) (Entered: 06/25/2003)
07/03/2003	63	STIPULATION and ORDER by Judge Maxine M. Chesney : setting hearing on motion for leave to file Counterclaim [52-1] for 9:00 a.m. on 8/15/03 Case Management Conference reset for 9:00 a.m. on 8/15/03 ; (cc: all counsel) [3:99-cv-02169] (rcs, COURT STAFF) (Entered: 07/08/2003)
07/03/2003	64	ORDER by Judge Maxine M. Chesney of recusal ( Date Entered: 07/08/03) (cc: all counsel) [3:99-cv-02169] (rcs, COURT STAFF) (Entered: 07/08/2003)



07/07/2003	65	ORDER by Executive Committee Case reassigned to Judge Susan Illston; referred to Judge Susan Illston the motion for leave to file Counterclaim [52-1] ( Date Entered: 07/08/03) (cc: all counsel) [3:99-cv-02169] (rcs, COURT STAFF) (Entered: 07/08/2003)
07/08/2003	66	CLERK'S NOTICE setting hearing on motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1] 9:00 8/15/03 Further Case Management Conference set for 2:30 10/3/03 ; A joint case management conference statement must be filed one week prior to the conference. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/10/2003)
07/17/2003	68	MAIL [66-2] returned addressed to Jarett Lezdey from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/01/2003)
07/18/2003	67	MAIL [66-2] addressed to Darren Lezdey returned from Post Office. Remaild to new addres. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/18/2003)
07/21/2003	69	MAIL [65-2] addressed to defendant Jarett Lezdey returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/01/2003)
08/14/2003	70	NOTICE of Change of Firm Name by defendants'counsels' firm to Rovens Lamb LLP. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/15/2003)
08/19/2003	71	MINUTES: ( C/R K. Wyatt) ( Hearing Date: 8/15/03) granting motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1]. The case shall be stayed pending until the case management conference scheduled in October 2003. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/19/2003)
08/19/2003	72	ORDER by Judge Susan Illston granting motion for leave to file Counterclaim; Declarations of John Lezdey and Douglas J. Rovens in Support Thereof [52-1]. After the counterclaim has been filed with the Court, the action will be stayed pending the October 3, 2003 case management conference, at which time the Court will evaluate whether the stay should be lifted. ( Date Entered: 8/20/03) (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/20/2003)
08/29/2003	73	AMENDED ANSWER by defendant Sonoran Desert Chem, defendant John Lezdey [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/04/2003)
08/29/2003	74	COUNTERCLAIM; jury demand by defendant Sonoran Desert

		Chem, defendant John Lezdey against Plaintiff Alphaone Pharmaceuti [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/04/2003)
09/02/2003	75	MAIL [72-1] addressed to Jarett lezdey returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/04/2003)
09/05/2003	76	PROOF OF SERVICE by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant Protease Sciences of order [72-1], clerk notice [66-2] [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/08/2003)
09/15/2003	77	PROOF OF SERVICE by defendants of Summons and Complaint on Baxter Healthcare Corporation. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/15/2003)
09/22/2003	78	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/23/2003)
09/30/2003	79	EX-PARTE APPLICATION before Judge Susan Illston by defendant Sonoran Desert Chem, defendant John Lezdey, defendant Protease Sciences, defendant J&D Science, Inc., defendant J.L. Technology L.P. for temporary restraining order , and for order to show cause or other appropriate relief directing the Arizona Superior Court for Maricopa County (the Honorable Paul A. Katz) to show cause why its contempt order, dated September 10, 2003, dismissing the counterclaim in this action (and other illegal orders) should not be enjoined. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/01/2003)
09/30/2003	80	MEMORANDUM of Points and Authorities by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant John Lezdey, defendant Protease Sciences in support of motion for temporary restraining order [79-1], of motion for order to show cause [79-2]; declarations of John Lezdey and Douglas J. Rovens in support thereof. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/01/2003)
09/30/2003		RECEIVED Proposed Order ( defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant John Lezdey, defendant Protease Sciences ) re: motion for temporary restraining order [79-1], re: motion for order to show cause [79-2] [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/01/2003)
09/30/2003	81	PROOF OF SERVICE by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc.,

		defendant John Lezdey, defendant Protease Sciences of memorandum [80-1], motion for temporary restraining order [79-1], motion for order to show cause [79-2], proposed order. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/01/2003)
10/02/2003	82	Preliminary Memorandum in RESPONSE by Plaintiff Alphaone Pharmaceuti re motion for temporary restraining order [79-1] [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/03/2003)
10/02/2003	83	PROOF OF SERVICE on Honorable Paul A. Katz by Plaintiff Alphaone Pharmaceuti of motion for temporary restraining order [79-1], motion for order to show cause [79-2] [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/03/2003)
10/07/2003	84	ORDER by Judge Susan Illston denying motion for temporary restraining order [79-1], denying motion for order to show cause [79-2]. Stay in this action is continued until April 16, 2004. ( Date Entered: 10/8/03) (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/08/2003)
10/07/2003	85	MINUTES: ( C/R None) Further Case Management Conference HELD ( Hearing Date: 10/3/03) Further Case Management Conference set for 2:30 4/16/04 ; The Court is not inclined to grant the motion for temporary restraining order. The stay imposed on this case shall remain in effect until April 16, 2004. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/08/2003)
10/23/2003	86	MAIL [84-1] addressed to Jarett Lezdey returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/28/2003)
04/02/2004	87	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 04/02/2004)
04/14/2004		RECEIVED Joint Stipulation and proposed order for continuance of the case management conference submitted by Plaintiff, defendant [3:99-cv-02169] (ys, COURT STAFF) (Entered: 04/14/2004)
04/15/2004	88	JOINT STIPULATION and ORDER by Judge Susan Illston : Further Case Management Conference set for 2:30 6/25/04 ; (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 04/15/2004)
04/16/2004	89	NOTICE of Entry of Order by Plaintiff, defendant [88-2] order [3:99-cv-02169] (ys, COURT STAFF) (Entered: 04/19/2004)
06/10/2004		RECEIVED Joint stipulation and proposed order for continuance of the case management conference submitted by Plaintiff, defendants. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 06/14/2004)



06/15/2004	90	STIPULATION and ORDER by Judge Susan Illston : for continuance of the case management conference Case Management Conference set for 2:30 7/23/04 subject to the parties seeking an earlier case management conference; (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 06/16/2004)
07/02/2004	91	MAIL [90-2] addressed to defendant Jarett Lezdey returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/07/2004)
07/13/2004	92	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/13/2004)
07/21/2004	93	NOTICE by defendant Sonoran Desert Chem, defendant J.L. Technology L.P., defendant J&D Science, Inc., defendant John Lezdey, defendant Protease Sciences of change of address [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/23/2004)
07/30/2004	94	MINUTES: ( C/R None) Further case management conference HELD ( Hearing Date: 7/23/04) Further Case Management Conference set for 2:30 9/10/04 ; This case shall be stayed until 9/8/04. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/03/2004)
08/27/2004		RECEIVED Joint Request and Proposed order for continuance of the case management conference submitted by Plaintiff, defendant [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/30/2004)
08/31/2004	95	ORDER by Judge Susan Illston : Continuance of Case Management Conference set for 2:30 10/29/04 ; ( Date Entered: 9/2/04) (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 09/02/2004)
10/13/2004	96	CLERK'S NOTICE Further Case Management Conference set for 2:30 11/16/04 ; [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/18/2004)
11/08/2004	98	MAIL [96-2] addressed to Jarett Lezdey, Esq. returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 11/16/2004)
11/12/2004	97	JOINT CASE MANAGEMENT STATEMENT and PROPOSED ORDER filed. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 11/12/2004)
11/16/2004		RECEIVED Joint Stipulation and Proposed Order for continuance of the case management conference submitted by Plaintiff, defendant [3:99-cv-02169] (ys, COURT STAFF) (Entered: 11/16/2004)

		11/16/2004)
11/17/2004	99	STIPULATION and ORDER for continuance of the Case management conference by Judge Susan Illston : Case Management Conference set for 2:30 1/14/05 ; (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 11/18/2004)
12/10/2004	100	REPORTER'S TRANSCRIPT; Date of proceedings: 8/15/03 ( C/R: Katherine Wyatt) minutes [71-1] [3:99-cv-02169] (ys, COURT STAFF) (Entered: 12/10/2004)
01/06/2005		RECEIVED Joint Stipulation and proposed for continuance of the case management conference submitted by Plaintiff, defendant [3:99-cv-02169] (ys, COURT STAFF) (Entered: 01/06/2005)
01/10/2005	101	JOINT STIPULATION and ORDER by Judge Susan Illston : Case Management Conference set for 2:30 6/10/05 ; (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 01/11/2005)
06/03/2005	102	NOTICE OF MOTION AND MOTION WITH MEMORANDUM OF POINTS AND AUTHORITIES ; declaration of Douglas J. Rovens before Judge Susan Illston by defendant Jarett Lezdey, defendant Darren Lezdey for order lifting stay and referrin gcase to bankruptcy court with Notice set for 6/10/05 at 2:30 pm. [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/07/2005)
06/03/2005	103	EX-PARTE APPLICATION before Judge Susan Illston by defendant Jarett Lezdey, defendant Darren Lezdey for order shortening time to file motion for order lifting stay [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/07/2005)
06/03/2005		RECEIVED Proposed Order ( defendant Jarett Lezdey, defendant Darren Lezdey ) re: motion for order shortening time to file motion for order lifting stay [103-1] [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/07/2005)
06/06/2005	104	MEMORANDUM by Plaintiff Alphaone Pharmaceuti in opposition to motion for order shortening time to file motion for order lifting stay [103-1], motion for order lifting stay and referrin gcase to bankruptcy court [102-1] [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/07/2005)
06/06/2005		RECEIVED Proposed Order for Continuance of the Case Management Conference ( Plaintiff Alphaone Pharmaceuti ) [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/07/2005)
06/06/2005	105	RESPONSE by Counter-defendant Baxter Healthcare re motion for order shortening time to file motion for order lifting stay [103-1] [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/09/2005)

06/07/2005	106	REPLY by defendant Jarett Lezdey, defendant Darren Lezdey re application for order shortening time to file motion for order lifting stay [103-1] [3:99-cv-02169] (cb, COURT STAFF) (Entered: 06/14/2005)
06/13/2005	107	MINUTES: ( C/R None) ( Hearing Date: 6/10/05) Further Case Management Conference set for 2:30 10/7/05 ; [3:99-cv-02169] (hdj, COURT STAFF) (Entered: 06/15/2005)
06/13/2005	108	ORDER by Judge Susan Illston Case Management Conference set for 2:30 10/7/05 ; ( Date Entered: 6/16/05) (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 06/16/2005)
07/11/2005	109	NOTICE by defendant Sonoran Desert Chem, defendant John Lezdey, Counter-claimant Sonoran Desert Chem, Counter-claimant John Lezdey of change of address [3:99-cv-02169] (ys, COURT STAFF) (Entered: 07/12/2005)
08/18/2005	110	Certificate/PROOF OF SERVICE of Clerk's Notice re continuance of case management conference to 10/17/05 at 2:30 p.m.. [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/19/2005)
08/18/2005		Docket Modification (Administrative) to service [110-1] Case Management Conference set for 2:30 10/17/05 ; [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/19/2005)
08/30/2005	111	MAIL [110-1] addressed to Jarett Lezdey returned from Post Office [3:99-cv-02169] (ys, COURT STAFF) (Entered: 08/31/2005)
10/06/2005	112	STIPULATION and ORDER by Judge Susan Illston : continuing Case Management Conference set for 2:30 12/2/05 ; (cc: all counsel) [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/07/2005)
10/24/2005	113	Amended CLERK'S NOTICE Case Management Conference set for 9:00 12/1/05 ; [3:99-cv-02169] (ys, COURT STAFF) (Entered: 10/25/2005)
11/03/2005	114	Mail Returned as Undeliverable re <u>113</u> . Mail sent to Kurt E. Springmann, Michael A. Jacobs. (ys, COURT STAFF) (Filed on 11/3/2005) (Entered: 11/07/2005)
11/09/2005		Joint Stipulation and proposed order for continuance of the case management conference by parties. (ys, COURT STAFF) (Filed on 11/9/2005) (Entered: 11/10/2005)
11/14/2005	115	STIPULATION AND ORDER for Continuance of the case management conference to 12/19/05 at 10:30 a.m.. Signed by Judge Susan Illston on 11/10/05. (ys, COURT STAFF) (Filed on 11/14/2005) (Entered: 11/14/2005)



11/14/2005		Set Deadlines/Hearings: Case Management Conference set for 12/19/2005 10:30 AM. (ys, COURT STAFF) (Filed on 11/14/2005) (Entered: 11/14/2005)
12/05/2005	116	Mail Returned as Undeliverable re <u>113</u> . Mail sent to Jarett Lezdey. (ys, COURT STAFF) (Filed on 12/5/2005) (Entered: 12/06/2005)
12/07/2005		Joint Stipulation and Proposed Order for Continuance of the Case Management Conference by parties. (ys, COURT STAFF) (Filed on 12/7/2005) (Entered: 12/08/2005)
12/08/2005	117	JOINT STIPULATION AND ORDER for Continuance of the Case Management Conference to 2/10/05 at 2:30 p.m.. Signed by Judge Susan Illston on 12/7/05. (ys, COURT STAFF) (Filed on 12/8/2005) (Entered: 12/12/2005)
12/08/2005		Set Deadlines/Hearings: Case Management Conference set for 2/10/2006 02:30 PM. (ys, COURT STAFF) (Filed on 12/8/2005) (Entered: 12/12/2005)
01/23/2006	118	CERTIFICATE OF SERVICE of Notice re continuance of case management conference to 2/24/06 at 2:30 p.m.. (ys, COURT STAFF) (Filed on 1/23/2006) (Entered: 01/24/2006)
01/23/2006		Set Deadlines/Hearings: Further Case Management Conference set for 2/24/2006 02:30 PM. (ys, COURT STAFF) (Filed on 1/23/2006) (Entered: 01/24/2006)
02/13/2006	119	JOINT CASE MANAGEMENT STATEMENT. (ys, COURT STAFF) (Filed on 2/13/2006) (Entered: 02/13/2006)
03/02/2006	120	Minute Entry: Further Case Management Conference held on 2/24/2006 before Susan Illston (Date Filed: 3/2/2006). Further case management conference set for 3/24/06 at 2:30 p.m.. The Court lifted the stay that was previously imposed on this case. "Baxter" shall file its response within 30 days. (Court Reporter None.) (ys, COURT STAFF) (Date Filed: 3/2/2006) (Entered: 03/02/2006)
03/02/2006		Set Deadlines/Hearings: Further Case Management Conference set for 3/24/2006 02:30 PM. (ys, COURT STAFF) (Filed on 3/2/2006) (Entered: 03/02/2006)
03/02/2006	<u>121</u>	ORDER: This case shall be referred to the Court's E.Filing (ECF) Program. All filings shall be made in compliance with General Order 45. Signed by Judge Susan Illston on 3/1/06. (ys, COURT STAFF) (Filed on 3/2/2006) (Entered: 03/03/2006)
03/03/2006	122	Mail Returned re <u>118</u> as Undeliverable. Mail sent to Jarett Lezdey. (ys, COURT STAFF) (Filed on 3/3/2006) (Entered: 03/07/2006)



03/17/2006	<u>123</u>	STIPULATION <i>JOINT STIPULATION AND [PROPOSED] ORDER REGARDING CASE MANAGEMENT CONFERENCE AND RESPONSE TO COUNTERCLAIM</i> by Alphaone Pharmaceuticals, Inc.. (Kim, Grant) (Filed on 3/17/2006) (Entered: 03/17/2006)
03/21/2006	<u>124</u>	ORDER ; case management continued to 4/14/06. Signed by Judge Illston on 3/20/06. (ts, COURT STAFF) (Filed on 3/21/2006) (Entered: 03/21/2006)
03/21/2006		Set Deadlines/Hearings: Case Management Conference set for 4/14/2006 02:30 PM. (ys, COURT STAFF) (Filed on 3/21/2006) (Entered: 03/22/2006)
03/28/2006	<u>125</u>	NOTICE of Change In Counsel by Grant L. Kim <i>Notice of Substitution of Counsel</i> (Kim, Grant) (Filed on 3/28/2006) (Entered: 03/28/2006)
04/06/2006	<u>126</u>	STIPULATION <i>Joint Stipulation and [Proposed] Order Regarding Case Management Conference and Response to Counterclaim</i> by Alphaone Pharmaceuticals, Inc.. (Kim, Grant) (Filed on 4/6/2006) (Entered: 04/06/2006)
04/06/2006	<u>127</u>	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. <i>Proof of Service of Joint Stipulation and [Proposed] Order Regarding Case Management Conference and Response to Counterclaim</i> (Kim, Grant) (Filed on 4/6/2006) (Entered: 04/06/2006)
04/12/2006	<u>128</u>	ORDER continuing case management to 5/12/06 @ 2:30 p.m.. Signed by Judge Illston on 4/10/06. (ts, COURT STAFF) (Filed on 4/12/2006) (Entered: 04/12/2006)
04/12/2006		Set Deadlines/Hearings: Case Management Conference set for 5/12/2006 02:30 PM. (ys, COURT STAFF) (Filed on 4/12/2006) (Entered: 04/13/2006)
04/14/2006	<u>129</u>	MOTION to Dismiss <i>Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and John Lezdey</i> filed by Alphaone Pharmaceuticals, Inc.. Motion Hearing set for 5/12/2006 09:00 AM in Courtroom 10, 19th Floor, San Francisco. (Attachments: # <u>1</u> Proposed Order)(Kim, Grant) (Filed on 4/14/2006) (Entered: 04/14/2006)
04/14/2006	<u>130</u>	Declaration of Grant L. Kim in Support of <u>129</u> MOTION to Dismiss <i>Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and John Lezdey</i> filed by Alphaone Pharmaceuticals, Inc..

		(Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5# <u>6</u> Exhibit 6# <u>7</u> Exhibit 7# <u>8</u> Exhibit 8# <u>9</u> Exhibit 9# <u>10</u> Exhibit 10# <u>11</u> Exhibit 11# <u>12</u> Exhibit 12# <u>13</u> Exhibit 13# <u>14</u> Exhibit 14# <u>15</u> Exhibit 15# <u>16</u> Exhibit 16# <u>17</u> Exhibit 17# <u>18</u> Exhibit 18# <u>19</u> Exhibit 19# <u>20</u> Exhibit 20# <u>21</u> Exhibit 21# <u>22</u> Exhibit 22# <u>23</u> Exhibit 23# <u>24</u> Exhibit 24)(Related document(s) <u>129</u> ) (Kim, Grant) (Filed on 4/14/2006) (Entered: 04/14/2006)
04/14/2006	<u>131</u>	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>129</u> MOTION to Dismiss <i>Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and John Lezdey</i> , <u>130</u> Declaration in Support,, (Kim, Grant) (Filed on 4/14/2006) (Entered: 04/14/2006)
04/27/2006	<u>132</u>	CLERK'S NOTICE Continuing Motion Hearing Motion Hearing set for 6/9/2006 09:00 AM. (ts, COURT STAFF) (Filed on 4/27/2006) (Entered: 04/27/2006)
05/04/2006	<u>133</u>	STIPULATION <i>Joint Stipulation and [Proposed] Order Regarding Case Management Conference</i> by Alphaone Pharmaceuticals, Inc.. (Kim, Grant) (Filed on 5/4/2006) (Entered: 05/04/2006)
05/04/2006	<u>134</u>	CERTIFICATE OF SERVICE of <u>133</u> by Alphaone Pharmaceuticals, Inc. (Kim, Grant) (Filed on 5/4/2006) Modified on 5/5/2006 (ys, COURT STAFF). (Entered: 05/04/2006)
05/05/2006	<u>135</u>	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. <i>Amended Proof of Service on Jarrett Lezdey</i> (Kim, Grant) (Filed on 5/5/2006) (Entered: 05/05/2006)
05/11/2006	<u>136</u>	ORDER continuing case management conference to 6/9/06. Signed by Judge Illston on 5/11/06. (ts, COURT STAFF) (Filed on 5/11/2006) (Entered: 05/11/2006)
05/17/2006	<u>137</u>	Memorandum in Opposition to <u>129</u> <i>Arriva Pharmaceuticals, Inc. and Baxter Healthcare Corporations' Motion to Dismiss counterclaim</i> filed by John Lezdey. (Steele, John) (Filed on 5/17/2006) Modified on 5/18/2006 (ys, COURT STAFF). (Entered: 05/17/2006)
05/17/2006	<u>138</u>	Declaration of John Steele in Support of <u>137</u> Memorandum in Opposition to <i>Arriva Pharmaceuticals, Inc. and Baxter Healthcare Corporations' Motion to Dismiss Counterclaim</i> filed by John Lezdey. (Attachments: # <u>1</u> Exhibit A-G)(Related document(s) <u>137</u> ) (Steele, John) (Filed on 5/17/2006) (Entered: 05/17/2006)
05/17/2006	<u>139</u>	CERTIFICATE OF SERVICE by John Lezdey re <u>137</u> Memorandum in Opposition to <i>Arriva Pharmaceuticals, Inc. and Baxter Healthcare Corporations' Motion to Dismiss Counterclaim</i>

		and <u>138</u> Declaration of John C. Steele in Support of Lezdey and Sonoran's Opposition to Arriva Pharmaceuticals, Inc. and Baxter Healthcare Corp.'s Motion to Dismiss Counterclaim (Steele, John) (Filed on 5/17/2006) Modified on 5/18/2006 (ys, COURT STAFF). (Entered: 05/17/2006)
05/26/2006	<u>140</u>	Reply in support re <u>129</u> MOTION to Dismiss Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and John Lezdey filed by Alphaone Pharmaceuticals, Inc.. (Kim, Grant) (Filed on 5/26/2006) Modified on 5/30/2006 (ys, COURT STAFF). (Entered: 05/26/2006)
05/26/2006	<u>141</u>	Reply Declaration of Grant L. Kim In Support of <u>129</u> Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and John Lezdey filed by Alphaone Pharmaceuticals, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit A to Grant L. Kim Decl.# <u>2</u> Exhibit Exhibit B to Grant L. Kim decl.# <u>3</u> Exhibit Exhibit C to Grant L. Kim decl.# <u>4</u> Exhibit Exhibit D to Grant L. Kim decl.# <u>5</u> Exhibit Exhibit E to Grant L. Kim decl.)(Kim, Grant) (Filed on 5/26/2006) Modified on 5/30/2006 (ys, COURT STAFF). (Entered: 05/26/2006)
05/26/2006	<u>142</u>	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>140</u> Reply to Opposition,, <u>141</u> Declaration in Support,, (Kim, Grant) (Filed on 5/26/2006) (Entered: 05/26/2006)
05/30/2006	<u>143</u>	CLERK'S NOTICE Continuing Motion Hearing Motion Hearing set for 6/23/2006 09:00 AM. Case management conference set 6/23/06 @ 2:30 p.m. (ts, COURT STAFF) (Filed on 5/30/2006) (Entered: 05/30/2006)
05/30/2006		Set Deadlines/Hearings: Case Management Conference set for 6/23/2006 02:30 PM. (ys, COURT STAFF) (Filed on 5/30/2006) (Entered: 05/31/2006)
06/21/2006	<u>144</u>	JOINT CASE MANAGEMENT STATEMENT filed by Alphaone Pharmaceuticals, Inc.. (Attachments: # <u>1</u> )(Kim, Grant) (Filed on 6/21/2006) (Entered: 06/21/2006)
06/21/2006	<u>145</u>	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>144</u> Case Management Statement (Joint) (Kim, Grant) (Filed on 6/21/2006) (Entered: 06/21/2006)
06/27/2006	<u>146</u>	Minute Entry: Motion Hearing held on 6/23/2006 before Susan Illston (Date Filed: 6/27/2006) re <u>129</u> MOTION to Dismiss Arriva Pharmaceutical's Motion to Dismiss Declaratory Relief Counterclaim of Defendants Sonoran Desert Chemicals, LLC and



		<i>John Lezdey</i> filed by Alphaone Pharmaceuticals, Inc.. (Court Reporter K. Powell.) (ys, COURT STAFF) (Date Filed: 6/27/2006) (Entered: 06/28/2006)
06/28/2006	<u>147</u>	CLERK'S NOTICE Removing Case from E-Filing Program. (ys, COURT STAFF) (Filed on 6/28/2006) (Entered: 06/28/2006)
07/06/2006	<u>148</u>	ORDER by Judge Illston granting <u>129</u> Motion to Dismiss counterclaim; conditioned upon plaintiff's dismissal of claims (ts, COURT STAFF) (Filed on 7/6/2006) (Entered: 07/06/2006)
07/13/2006	149	Dismissal of its claims against Sonoran Desert Chemicals, LLC., John Lezdey, Protease Sciences, Inc., J.L. Technology, LP., and J&D Science, Inc. by Alphaone Pharmaceuticals, Inc.. (ys, COURT STAFF) (Filed on 7/13/2006) (Entered: 07/14/2006)
07/13/2006	150	Amended CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>149</u> Dismissal of Its Claims. (ys, COURT STAFF) (Filed on 7/13/2006) (Entered: 07/14/2006)
07/14/2006	151	ORDER: Dismissal of plaintiff's claims against Sonoran Desert Chemicals, LLC., John Lezdey, Protease Sciences, Inc., JL Technology, LP, and J&D Science, Inc.. Signed by Judge Susan Illston on 7/14/06. (ys, COURT STAFF) (Filed on 7/14/2006) (Entered: 07/17/2006)
07/17/2006	152	Mail Returned re <u>148</u> as Undeliverable. Mail sent to Jarett Lezdey. (ys, COURT STAFF) (Filed on 7/17/2006) (Entered: 07/20/2006)
07/20/2006	153	SUGGESTION OF BANKRUPTCY Upon the Record as to Darren B. Lezdey by Darren Lezdey. (ys, COURT STAFF) (Filed on 7/20/2006) (Entered: 07/20/2006)
07/20/2006	154	SUGGESTION OF BANKRUPTCY Upon the Record as to Jarret R. Lezdey by Jarett Lezdey, Jarett Lezdey. (ys, COURT STAFF) (Filed on 7/20/2006) (Entered: 07/20/2006)
07/24/2006	155	STIPULATION AND ORDER: Case Management Conference reset for 9/1/2006 02:30 PM.. Signed by Judge Susan Illston on 7/24/06. (ga, COURT STAFF) (Filed on 7/24/2006) (Entered: 07/28/2006)
07/24/2006	156	NOTICE by Alphaone Pharmaceuticals, Inc. re <u>151</u> Order (ga, COURT STAFF) (Filed on 7/24/2006) (Entered: 07/28/2006)
07/27/2006	157	Mail Returned as Undeliverable <u>148</u> . Mail sent to Douglas J. Rovens. (ga, COURT STAFF) (Filed on 7/27/2006) (Entered: 08/02/2006)
08/07/2006		Mail Returned as Undeliverable. Mail sent to Darren Lezdey. (hdj,

		COURT STAFF) (Filed on 8/7/2006) (Entered: 08/09/2006)
08/11/2006	158	Mail Returned re <u>155</u> as Undeliverable. Mail sent to Jarett Lezdey. (ys, COURT STAFF) (Filed on 8/11/2006) (Entered: 08/16/2006)
08/29/2006	159	JOINT CASE MANAGEMENT STATEMENT filed by Alphaone Pharmaceuticals, Inc.. (ys, COURT STAFF) (Filed on 8/29/2006) (Entered: 08/30/2006)
09/06/2006	160	Minute Entry: Further Case Management Conference held on 9/1/2006 before Susan Illston (Date Filed: 9/6/2006). The Court will issue an order to show cause re: trustee's counterclaims. (Court Reporter None.) (ys, COURT STAFF) (Date Filed: 9/6/2006) (Entered: 09/07/2006)
09/06/2006	161	ORDER to Bankruptcy Trustee for Darren and Jarett Lezdey to make showing re: prosecution of counterclaims with the Court on or before 9/18/06, a statement of his intention concerning prosecution of these counterclaims, together with a litigation plan. In the event the Trustee does plan to pursue these matters, he is ordered to appear in this court, through counsel, at a Case Management Conference on 9/22/06 at 2:30 p.m.. Signed by Judge Susan Illston on 9/6/06. (ys, COURT STAFF) (Filed on 9/6/2006) (Entered: 09/07/2006)
09/12/2006	162	NOTICE of Entry of Order by Alphaone Pharmaceuticals, Inc. re <u>161</u> Order. (ys, COURT STAFF) (Filed on 9/12/2006) (Entered: 09/12/2006)
09/12/2006	163	CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>162</u> Notice (Other) (ys, COURT STAFF) (Filed on 9/12/2006) (Entered: 09/12/2006)
09/13/2006	164	Amended CERTIFICATE OF SERVICE by Alphaone Pharmaceuticals, Inc. re <u>162</u> Notice(ys, COURT STAFF) (Filed on 9/13/2006) (Entered: 09/13/2006)
09/18/2006	165	Andrea P. Bauman, Chapter 7 Trustee's Statement of Intention by Jarett Lezdey, Darren Lezdey. (ys, COURT STAFF) (Filed on 9/18/2006) (Entered: 09/18/2006)
09/18/2006	166	Mail Returned as Undeliverable re <u>161</u> . Mail sent to Darren Lezdey. (ys, COURT STAFF) (Filed on 9/18/2006) (Entered: 09/19/2006)
09/20/2006	167	RESPONSE to re <u>165</u> Andrea P. Bauman, Chapter 7 Trustee's Statement of Intention by Alphaone Pharmaceuticals, Inc.. (ys, COURT STAFF) (Filed on 9/20/2006) (Entered: 09/20/2006)
09/21/2006	<u>168</u>	ORDER TO BANKRUPTCY TRUSTEE FOR DARREN AND

		JARETT LEZDEY TO MAKE SHOWING RE: PROSECUTION OF COUNTERCLAIMS. Signed by Judge Illston on 9/19/06. (ts, COURT STAFF) (Filed on 9/21/2006) (Entered: 09/21/2006)
09/21/2006		Set Deadlines/Hearings: Case Management Conference set for 11/17/2006 02:00 PM. (ys, COURT STAFF) (Filed on 9/21/2006) (Entered: 09/22/2006)
09/21/2006	169	CERTIFICATE OF SERVICE re <u>168</u> Order by USDC. (ys, COURT STAFF) (Filed on 9/21/2006) (Entered: 09/22/2006)
09/25/2006	170	Mail Returned re <u>161</u> as Undeliverable. Mail sent to Jarett Lezdey. (ys, COURT STAFF) (Filed on 9/25/2006) (Entered: 09/26/2006)
10/02/2006	171	Mail Returned re <u>168</u> as Undeliverable. Mail sent to Darren Lezdey. (ys, COURT STAFF) (Filed on 10/2/2006) (Entered: 10/02/2006)
10/02/2006	172	Mail Returned re <u>169</u> as Undeliverable. Mail sent to Douglas Rovens. (ys, COURT STAFF) (Filed on 10/2/2006) (Entered: 10/03/2006)
10/03/2006	173	Mail Returned re <u>168</u> as Undeliverable. Mail sent to Douglas J. Rovens. (ys, COURT STAFF) (Filed on 10/3/2006) (Entered: 10/05/2006)
10/20/2006	174	Mail Returned re <u>161</u> as Undeliverable. Mail sent to Douglas J. Rovens. (ys, COURT STAFF) (Filed on 10/20/2006) (Entered: 10/20/2006)
11/17/2006	175	Andrea P. Bauman, Chapter 7 Trustee's Statement of Intention by Jarett Lezdey, Darren Lezdey. (ys, COURT STAFF) (Filed on 11/17/2006) (Entered: 11/17/2006)
11/22/2006	<u>176</u>	Minute Entry: Further Case Management Conference held on 11/17/2006 before Illston (Date Filed: 11/22/2006). Case continued to 12/15/06 @ 2:30 p.m. for Further Management Conference. The Trustee must appear at the next case management conference if the case is not resolved prior to 12/15/06.() (ts, COURT STAFF) (Date Filed: 11/22/2006) (Entered: 11/22/2006)
11/22/2006		Set Deadlines/Hearings: Case Management Conference set for 12/15/2006 02:30 PM. (ys, COURT STAFF) (Filed on 11/22/2006) (Entered: 11/27/2006)
12/04/2006	177	MOTION to Appear by Telephone at December 15, 2006 Case Management Confernece filed by Jarett Lezdey, Darren Lezdey. (ys, COURT STAFF) (Filed on 12/4/2006) (Entered: 12/04/2006)
12/12/2006		Received Document Stipulation and proposed order dismissing



		claims and counterclaims of Arriva Pharmaceuticals, Darren B. Lezdey, and Jarett R. Lezdey by Alphaone Pharmaceuticals, Inc., Jarett Lezdey, Darren Lezdey. (ys, COURT STAFF) (Filed on 12/12/2006) (Entered: 12/13/2006)
12/13/2006	178	NOTICE of Filing by Andrea P. Bauman. (ys, COURT STAFF) (Filed on 12/13/2006) (Entered: 12/13/2006)
12/18/2006	179	STIPULATION AND ORDER DISMISSING CLAIMS AND COUNTERCLAIMS OF ARRIVA PHARMACEUTICALS, DARREN B. LEZDEY, AND JARETT R. LEZDEY without prejudice. Signed by Judge Susan Illston on 12/15/06. (ys, COURT STAFF) (Filed on 12/18/2006) (Entered: 12/19/2006)
12/21/2006	180	NOTICE of Entry of Order by Alphaone Pharmaceuticals, Inc. re <u>179</u> Order Dismissing Case. (ys, COURT STAFF) (Filed on 12/21/2006) (Entered: 12/21/2006)
01/17/2007	181	Mail Returned as Undeliverable. Mail sent to Jarett Lezdey re <u>179</u> . (ys, COURT STAFF) (Filed on 1/17/2007) (Entered: 01/18/2007)

### PACER Service Center

#### Transaction Receipt

01/07/2008 21:26:40

<b>PACER Login:</b>	sm0064	<b>Client Code:</b>	12KB-124801/2443/
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	3:99-cv-02169-SI
<b>Billable Pages:</b>	13	<b>Cost:</b>	1.04





1 SHEPPARD, MULLIN, RICHTER &  
2 HAMPTON LLP  
3 A Limited Liability Partnership  
4 Including Professional Corporations  
5 MICHAEL H. AHRENS, Cal. Bar No. 44766  
6 ORI KATZ, Cal. Bar No. 209561  
7 MICHAEL M. LAUTER Cal. Bar No. 246048  
8 TIMOTHY C. PERRY, Cal. Bar No. 248543  
9 Four Embarcadero Center, 17th Floor  
10 San Francisco, California 94111-4106  
11 Telephone: 415-434-9100  
12 Facsimile: 415-434-3947

13 Attorneys for ARRIVA PHARMACEUTICALS, INC.

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 In re

18 ARRIVA PHARMACEUTICALS, INC., a  
19 California corporation,

20 Debtor-Appellee.

21 Tax ID: 94-3287067

No. \_\_\_\_\_

**[PROPOSED] ORDER RELATING  
CASES**

Action filed: January \_\_, 2008

22 Having considered the papers submitted and arguments presented on Debtor-  
23 Appellee Arriva Pharmaceutical, Inc.'s Administrative Motion to Consider Whether Cases  
24 Should Be Related (the "Motion"), IT IS HEREBY ORDERED THAT the Motion is  
25 GRANTED.

26 IT IS FURTHER ORDERED THAT the following cases are related within the  
27 meaning of Civil Local Rule 3-12:

- 28 1. *Arriva Pharmaceuticals, Inc. v. Sonoran Desert Chemicals, LLC*, No. 99-  
cv-02169.

1                   2. The appeal of Sonoran Desert Chemicals from the final order of the  
2 United States Bankruptcy Court for the Northern District of California disallowing its  
3 claims in the bankruptcy case docketed at 07-42767.

4                   3. The appeal of AlphaMed Pharmaceuticals Corp. from the final order of  
5 the United States Bankruptcy Court for the Northern District of California disallowing its  
6 claims in the bankruptcy case docketed at 07-42767.

7                   4. The appeal of Protease Sciences, Inc. ("PSI") from the final order of the  
8 United States Bankruptcy Court for the Northern District of California disallowing its  
9 claims in the bankruptcy case docketed at 07-42767.

10           IT IS FURTHER ORDERED THAT cases 2-4 are hereby assigned to District Judge  
11 Illston, the assigned judge in the earlier-filed action, *Arriva Pharmaceuticals, Inc. v.*  
12 *Sonoran Desert Chemicals, LLC*, No. 99-cv-02169.

13           IT IS SO ORDERED.

14  
15           Dates: January \_\_, 2008.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28